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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

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COMMONWEALTH OF MASSACHUSETTS
vs. Indictment No.
KAREN READ 2282CR00117
* * * * *

Day 26 - Trial with Jury
Before the Honorable Beverly Cannone

APPEARANCES:

For The Commonwealth:
BY: Adam Lally
Laura McLaughlin
Assistants District Attorney

For Karen Read:
BY: Alan Jackson
David Yannetti
Elizabeth Little
Attorneys at Law

Norfolk Superior Courthouse
Dedham, Massachusetts
Wednesday, June 5, 2024

Paula M. Mills
Retired Certified Court Reporter
and Court Transcriptionist

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P R O C E E D I N G SJune 5, 2024

(Court in session at 9:12 a.m.)

(Defendant present. Jury not present.)

THE CLERK: 22-117, Commonwealth versus Karen Read. Counsel, kindly identify yourselves for the record.

MR. LALLY: Adam Lally, for the Commonwealth. Good morning, Your Honor.

THE COURT: Good morning, Mr. Lally.

MS. MCLAUGHLIN: Good morning, Your Honor. Laura McLaughlin, for the Commonwealth.

THE COURT: Good morning, Ms. McLaughlin.

MR. JACKSON: Good morning, Your Honor. Alan Jackson, for Ms. Read.

THE COURT: Good morning, Mr. Jackson.

MS. LITTLE: Good morning, Your Honor. Elizabeth Little, also on behalf of Ms. Read.

THE COURT: Good morning, Ms. Little.

MR. YANNETTI: Good morning, Your Honor. David Yannetti, for Karen Read.

THE COURT: Good morning, Mr. Yannetti. Good morning, Ms. Read.

Good morning, jurors. So I have to ask you those same three questions. Were you able to

1 follow the instructions and refrain from discussing
2 this case with anyone since we left here on Monday?

3 Everyone said "yes" and nodded affirmatively.

4 Were you also able to follow the instructions
5 and refrain from doing any independent research or
6 investigation into this case since we were last
7 here?

8 Everyone said "yes" or nodded affirmatively.

9 Did anyone happen to see, hear or read
10 anything about this case since we left here the
11 other day? Everyone said "no" or shook their
12 heads.

13 Okay. Thank you. May we have Mx. Vallier,
14 please.

15 Whereupon

16 ASHLEY VALLIER, Resuming

17 having been first duly sworn, was examined and
18 testified under oath as follows:

19 THE COURT: All right, Mr. Lally. Whenever
20 you are ready.

21 MR. LALLY: Thank you, Your Honor.

22 CONTINUED DIRECT EXAMINATION

23 BY MR. LALLY:

24 Q Good morning, ma'am.

25 A Good morning

1 Q Now, Mx. Vallier, when we had left off the
2 other day, I believe you had just looked at some photos
3 of Item 7-16; is that correct? If you recall.

4 A It's been a few days.

5 Q That's okay.

6 MR. LALLY: May I approach, Your Honor?

7 THE COURT: Yes.

8 BY MR. LALLY:

9 Q Mx. Vallier, I'm going to show you a series of
10 six photographs and ask you to review those and look up
11 when you're finished.

12 THE COURT: I am going to remind both of you
13 to keep your voices up.

14 MR. LALLY: Yes, Your Honor.

15 BY MR. LALLY:

16 Q Mx. Vallier, do you recognize what's in those
17 photographs?

18 A I do.

19 Q And what do you recognize those to be?

20 A Photos I took of Item 7-16.

21 MR. LALLY: May I approach the witness, Your
22 Honor?

23 THE COURT: Yes.

24 MR. LALLY: Your Honor, the Commonwealth seeks
25 to introduce and admit as the next exhibit.

1 MR. YANNETTI: May I just see it, please?

2 No objection.

3 (Whereupon, photographs were entered and marked
4 Exhibits No. 332 and 333 in Evidence.)

5 (Whereupon, photographs were entered and marked
6 Exhibits No. 369 through 372 in Evidence.)

7 THE COURT REPORTER: Your Honor, for the
8 record, those are Exhibits 332, 333, 369, 370, 371
9 and 372, as 332 and 333 were skipped over in our
10 last day of trial.

11 MR. LALLY: Thank you, Your Honor. With the
12 Court's permission, may I have those published for
13 the jury?

14 THE COURT: Yes.

15 MR. LALLY: And, Ms. Gilman, if I could have
16 Photograph 2059.

17 Q Mx. Vallier, do you recognize what's up on the
18 screen in that photograph which has now been marked as
19 Exhibit 332?

20 A Yes.

21 Q Is that one of the items from 7-16, next to a
22 ruler with measurements corresponding to that item?

23 A Yes.

24 MR. LALLY: Ms. Gilman, if I could have
25 Photograph 2081. Excuse me. 2061. I apologize.

1 Q Mx. Vallier, what's up on the screen, is that
2 a piece from 7-16 that's now been marked as Exhibit
3 369?

4 A Yes.

5 Q Now, Mx. Vallier, as far as this particular
6 item is concerned, with reference to sort of the
7 texture of that particular piece of plastic, what, if
8 anything, did you note or observe in reference to that?

9 A I'm sorry. The texture?

10 Q I'm sorry. Do you have the laser pointer in
11 front of you?

12 A Oh, yes.

13 Q Now, as far as the surface area of that
14 particular piece of plastic, how would you describe
15 that?

16 A I mean, there are little dots on it. There's
17 like dimples of a sort.

18 Q Stippling or dimples of some sort on a piece
19 of plastic?

20 A Yes.

21 Q And, as far as those stipplings or dimples on
22 the piece of plastic, were those flush with the rest of
23 the plastic? Were they raised a little bit? How were
24 they sort of --

25 A I don't recall.

1 MR. LALLY: Ms. Gilman, if I could have
2 Photograph 20 -- forgive me, Your Honor. 2064.

3 Q And, again, Mx. Vallier, what's up on the
4 screen has now been marked as Exhibit 371. Do you
5 recognize that?

6 A I do.

7 Q And that is another piece next to a ruler,
8 essentially, memorializing its measurements from Item
9 7-16; is that correct?

10 A Correct.

11 MR. LALLY: Your Honor, may I approach the
12 witness?

13 THE COURT: Yes.

14 Q Mx. Vallier, I'm showing you another series of
15 11 photographs and ask you to look at those and look up
16 when you're finished.

17 THE COURT: Will you show Mr. Yannetti what
18 those are?

19 MR. LALLY: Your Honor, each counsel was shown
20 each and every one of the photographs prior to,
21 before coming in today, but I'm happy to give them
22 to counsel to look.

23 MR. YANNETTI: I just need to know the
24 particular evidence numbers at the end.

25 BY MR. LALLY:

1 Q Do you recognize those?

2 A I do.

3 Q And what do you recognize those to be?

4 A Photos I took of Item 7-16.

5 Q So additional items contained within Item 7-
6 16; is that correct?

7 A Yes.

8 Q And what's contained in those photographs, is
9 that a fair and accurate portrayal of what you observed
10 during the course of your examination and analysis in
11 regard to Item 7-16 in this case?

12 A Yes.

13 MR. LALLY: Your Honor, the Commonwealth would
14 seek to introduce and admit as the next 11
15 exhibits.

16 THE COURT: Any objection?

17 MR. YANNETTI: I'm not going to have an
18 objection. I just need to know what numbers they
19 are.

20 (Whereupon, photographs were entered and marked
21 Exhibits No. 373 through 383 in Evidence.)

22 THE COURT REPORTER: Exhibits 373 through 383,
23 Your Honor.

24 THE COURT: Thank you.

25 MR. LALLY: And, Your Honor, with the Court's

1 permission, if I could publish some of the photos
2 from this packet to the jury.

3 THE COURT: Okay.

4 MR. LALLY: Ms. Gilman, if I could have
5 Photograph 2036.

6 BY MR. LALLY:

7 Q Mx. Vallier, do you recognize what's up on the
8 screen as Exhibit 373?

9 A That was one of the photos I just looked at.

10 Q And, as far as the evidence bag containing
11 items of 7-16; is that correct?

12 A Yes.

13 MR. LALLY: Ms. Gilman, if I could have 2039.

14 Q And, again, Mx. Vallier, do you recognize
15 what's up on the screen which has now been marked as
16 Exhibit 374?

17 A I do.

18 Q And what do you recognize those to be?

19 A A photo that I took of Item 7-16.

20 Q And that would be the entirety of the items in
21 that evidence bag from the prior exhibit; is that
22 correct?

23 A Yes.

24 MR. LALLY: Ms. Gilman, if I could have 2051?

25 Q And, again, Mx. Vallier, do you recognize

1 what's up on the screen?

2 A I do.

3 Q What do you recognize that to be?

4 A A photo I took of Item 7-16.

5 THE COURT REPORTER: Can you speak up a little
6 and slower?

7 MR. LALLY: Yes.

8 BY MR. LALLY:

9 Q In particular, one of the red plastic pieces
10 from Item 7-16; is that correct?

11 A Yes.

12 MR. LALLY: And, for the record, Your Honor,
13 that is Exhibit 376.

14 And, Ms. Gilman, if I could have Photograph
15 2053.

16 Q And, again, Mx. Vallier, do you recognize
17 what's now on the screen which has now been marked
18 Exhibit 378?

19 A I do.

20 Q What do you recognize that to be?

21 A One of the photos I took of Item 7-16.

22 MR. LALLY: Lastly, in this batch, Ms. Gilman,
23 if I could have Photograph 3055.

24 Q And, again, Mx. Vallier, do you recognize
25 what's up on the screen which is now marked Exhibit

1 380?

2 A I do.

3 Q And what do you recognize that as?

4 A It's one of the photos that I took of Item
5 7-16.

6 Q And this particular item in Exhibit 380, can
7 you describe sort the color, shape, what you observed
8 of this particular item?

9 A That's a piece of red and clear apparent
10 plastic.

11 Q A piece of red plastic with a piece of clear
12 plastic sort of within the same piece?

13 A Apparent plastic, yes.

14 Q Now, Mx. Vallier, could you describe for the
15 jury again just as far as the process --

16 THE COURT: Can we put the light on,
17 Mr. Lally?

18 MR. LALLY: Yes.

19 BY MR. LALLY:

20 Q Mx. Vallier, if you could explain to the jury
21 again sort of the process that you undertook as far as
22 these various pieces from these various evidence item
23 numbers? What was the process that you undertook as
24 far as doing your comparison?

25 A So first of all, everything is documented.

1 Each item is documented separately with photographs,
2 notes. I put a label with the case number, item
3 number, and then "A," "B," "C," et cetera. If there
4 are multiple pieces in it, we will put a label on each
5 piece. I look at the photos to see if there are any
6 similarities, dissimilarities, to see if there are any
7 potential pieces to compare.

8 And then, if I do think that there are pieces
9 that could be compared, I will open those items and
10 keep them all separate and then look at them in
11 realtime to see if it does actually look like they
12 could be consistent before I bring them close together.
13 If it still looks like they are, they could be
14 consistent, then I'll bring them together to see if
15 there is an actual mechanical fit and then I'll
16 document that and look at it under the stereo zoom.

17 Q And the device you use to look, can you
18 describe for the jury what that is again?

19 A So the stereo zoom is also called a stereo
20 microscope. It's a microscope that is on a stand so
21 you can put larger pieces of evidence underneath it.

22 Q Now, as far as that initial sort of looking at
23 things together, are you doing that -- how are you sort
24 of organizing that? Is that by item number, by color
25 or by something else?

1 A I did this by color because it seemed the
2 easiest way to organize all of these pieces.

3 Q And then within the individual item number,
4 say just randomly 7-15, for example, are you looking at
5 that -- if there's multiple pieces within an item, are
6 you looking at the consistency within the item prior to
7 looking, sort of crossing between 7-15 and 7-16? Is
8 that the process?

9 A I'm sorry. Could you repeat the question?

10 Q Sure. It's a very long question and very
11 confusing. My fault.

12 So as far as the comparison is concerned, are
13 you looking solely within an item so if an item has
14 multiple pieces, are you comparing just those pieces
15 within that item first?

16 A As part of my initial examination, I am
17 documenting that item. If there are multiple pieces,
18 I'll compare those pieces first.

19 Q And then if there are any pieces that are
20 consistent, are you then cross-referencing that item's
21 pieces with pieces from a different item?

22 A Yes.

23 MR. LALLY: Your Honor, may I approach?

24 THE COURT: Yes.

25 BY MR. LALLY:

1 Q I'm showing you another series of 19
2 photographs. I just ask you to review those and look
3 up when you are finished.

4 A (Witness complies.)

5 Q And do you recognize what's contained in those
6 photographs, Mx. Vallier?

7 A I do.

8 Q And what do you recognize them to be?

9 A These are photos from my case of either within
10 the same item that had a mechanical fit that I'd then
11 tape together or mechanical fits from between different
12 items.

13 MR. LALLY: May I approach, Your Honor?

14 THE COURT: Yes.

15 MR. LALLY: The Commonwealth would seek to
16 introduce them as the next 19 exhibits.

17 MR. YANNETTI: No objection, but have I seen
18 those yet?

19 MR. LALLY: This morning?

20 MR. YANNETTI: Right.

21 MR. LALLY: I was going to hand them to you
22 after they were marked.

23 MR. YANNETTI: That's fine.

24 (Whereupon, photographs were entered and marked
25 Exhibits No. 384 through 402 in Evidence.)

1 THE COURT REPORTER: Exhibits 384 through 402.

2 THE COURT: Thank you.

3 MR. YANNETTI: Your Honor, may I speak with
4 counsel for one second?

5 THE COURT: Sure.

6 (Whereupon, there was a discussion off the record.)

7 BY MR. LALLY:

8 Q Before we get to the photos, Mx. Vallier, if I
9 could just ask as far as your analysis was concerned
10 with reference to each of these items, if I could just
11 ask you some questions about that.

12 Starting first with Item 3-1, that was the
13 passenger side taillight housing; is that correct?

14 A I believe so.

15 Q And you analyzed pieces of that along with the
16 sort of housing unit, itself; is that correct?

17 A Do you mean like there was like the taillight
18 and there were smaller pieces also in there?

19 Q Yes.

20 A Yes.

21 Q And you took measurements of the various
22 pieces that you observed?

23 A I did.

24 Q And did you record those within your notes?

25 A I did.

1 Q Do you recall what those measurements were?

2 A Not without looking at my notes.

3 MR. LALLY: Your Honor, with the Court's
4 permission, may the witness refer to her notes?

5 THE COURT: Yes.

6 The witness is ready, Mr. Lally.

7 BY MR. LALLY:

8 Q And what were those measurements?

9 A Do you want all of them?

10 Q Just in -- yes. I mean, first starting with
11 reference to the taillight housing assembly.

12 A So the taillight I called Piece "A" in this
13 case. And it measured approximately 14 inches by 9
14 inches by 8 1/4 inches.

15 Q And then which of the pieces that were
16 contained within that sort of taillight evidence bag
17 did you compare to the taillight housing, itself?

18 A So there was a lot of like very, very small
19 pieces that I took pictures of. But they were very
20 small. So they were not suitable for comparison. So I
21 didn't look at those. There were some larger pieces
22 that were suitable for comparison. So I did look to
23 see if they fit in with Piece "A."

24 Q And with regard to that analysis of whether or
25 not they fit in with Piece "A," which of those pieces

1 did you find did fit?

2 A So amongst Item 3-1, Piece "A" and Piece "B"
3 fit together mechanically. And then Piece "A" and
4 Piece "F" fit together mechanically.

5 Q It may be pretty apparent, but, if you could,
6 Mx. Vallier, just expound upon what you mean when you
7 say "they fit together mechanically."

8 A So when things break, they break in a unique
9 pattern. Like, it's pretty different every time. So a
10 mechanical fit is bring two things with broken edges
11 together to see if they were originally from the same
12 item, see if the broken edges align. And, if they do,
13 then that's a mechanical fit.

14 Q Now, turning your attention to Item 7-5, you
15 looked at those various pieces together, as well; is
16 that correct?

17 A I believe so.

18 Q And were there any -- three pieces in total
19 from 7-5? So "A," "B," and "C"; is that correct, as
20 well?

21 A May I look at --

22 THE COURT: Yes.

23 THE WITNESS: Yes.

24 BY MR. LALLY:

25 Q And what, if any, match did you find within

1 Item 7-5.

2 A There were no mechanical fits amongst those
3 three items or three pieces of the item.

4 Q And, with reference to Item 7-6, there were
5 two pieces, "A" and "B," within that; is that correct?

6 A May I look?

7 THE COURT: Sure.

8 THE WITNESS: Yes.

9 BY MR. LALLY:

10 Q And were there any physical matches within
11 those two pieces of Item 7-6?

12 A No.

13 Q Now, turning your attention to Item 7-8, do
14 you recall how many pieces were contained within that?

15 A If I may look at my --

16 THE COURT: Yes.

17 THE WITNESS: There were 14 pieces.

18 BY MR. LALLY:

19 Q And, of those 14 pieces, they were each
20 compared to each other; is that correct?

21 A Correct.

22 Q And what, if any, mechanical fit did you find
23 between the pieces contained within 7-8?

24 A So Pieces "C" and "D" were found to fit
25 together mechanically. And then Pieces "E" and "F"

1 were found to fit together mechanically.

2 MR. YANNETTI: Your Honor, may we approach,
3 please?

4 THE COURT: You may.

5 (Whereupon, there was a sidebar conference as
6 follows:)

7 MR. YANNETTI: Your Honor, I don't want to
8 tell Mr. Lally how to try his case. However, we
9 are ultimately not going to be objecting to the
10 whole taillight being constructed by this witness,
11 and they are going through every piece that fits
12 with every other piece. So I'm just bringing it up
13 at sidebar in case Mr. Lally chooses to streamline
14 things. If he wants to continue to go through it
15 in this fashion, obviously I can't prevent that.
16 But I thought in the interest of time it was worth
17 raising it.

18 THE COURT: I am not going to tell you how to
19 try your case, but I am going to tell you to quit
20 leading. And, when you put something up on the
21 screen, just say, what are we looking at. It takes
22 far less time. Try and move things along, but I'm
23 not going to tell you how to try your case other
24 than the leading questions.

25 MR. LALLY: Sure.

1 MR. YANNETTI: Thank you, Your Honor.

2 THE COURT: Okay.

3 (Whereupon, the sidebar conference concluded.)

4 BY MR. LALLY:

5 Q Mx. Vallier, turning your attention to Item
6 7-9, you analyzed three pieces from that; is that
7 correct?

8 A May I --

9 THE COURT: You may. Mx. Vallier, you can
10 just look. Don't ask.

11 THE WITNESS: I'm sorry. Can you repeat your
12 question?

13 BY MR. LALLY:

14 Q Sure. How many pieces were contained again
15 within Item 7-9?

16 A Three pieces. 7-9?

17 Q Yes.

18 A Three pieces.

19 Q And what, if any, physical matches did you
20 find contained within that Item 7-9?

21 A There were no mechanical hits.

22 Q And with reference to 7-10, how many pieces?

23 A One piece.

24 Q And, with reference to Item 7-11, how many
25 pieces contained within that?

1 A Six pieces.

2 Q And what, if any, physical matches did you
3 find contained within 7-11?

4 A There were none.

5 Q In 7-11, how many different colors of pieces
6 were contained within 7-11?

7 A There was black, red and colorless apparent
8 plastic.

9 Q Now, with reference to Item 7-12, how many
10 pieces were contained within that?

11 A There were 14 pieces.

12 Q And, of those pieces, again, how many
13 different color or how many different colors or pieces
14 were within 7-12?

15 A They were all colorless.

16 Q And, from those, what, if any, mechanical fits
17 did you observe or did you find within Item 7-12?

18 A There were three. Do you want me to say all
19 the pieces that fit together?

20 Q Please.

21 A Okay. So Pieces "B," "C," "D," "F" and "K"
22 all fit together. Pieces "E" and "I" fit together, and
23 pieces "M" and "A" fit together.

24 Q Now, turning your attention to Item 7-13, how
25 many pieces were contained within Item 7-13?

1 A Three pieces.

2 Q And how many different colors of items were
3 contained within 7-13?

4 A It was red and black apparent plastic.

5 Q How many matches did you find within Item 7-
6 13?

7 A There were none.

8 Q Turning your attention to Item 7-14, how many
9 pieces were contained within that?

10 A There was one piece.

11 Q And what color was that one piece?

12 A It was colorless.

13 Q And turning your attention to Item 7-15, how
14 many pieces were contained within that?

15 A There were eight pieces.

16 Q And, as far as those eight pieces, how many
17 items were of different color and what color were they?

18 A They were red and colorless apparent plastic.

19 Q And, of those eight pieces, what, if any,
20 mechanical fits did you find within them?

21 A So Piece "F" and Piece "H" were found to fit
22 together.

23 Q Drawing your attention to Item 7-16, how many
24 pieces were contained within 7-16?

25 A There were seven pieces.

1 Q And, of those seven pieces, what, if any,
2 differences in color were the seven pieces within 7-16?

3 A It was red and colorless apparent plastic.

4 Q And, of those pieces, what, if any, mechanical
5 fits did you find within 7-16?

6 A Pieces "A," "C" and "D" fit together
7 mechanically.

8 Q Now, with reference to those pieces once you
9 did those inspections or analysis from the individual
10 items, what, if anything, did you do with those
11 individual items with reference to the taillight
12 housing?

13 A So before even comparing it to the taillight,
14 I compared all of the questioned items to each other,
15 so that's the 7-5 to 7-19, to see if any of those
16 pieces would fit together. And, amongst those, I was
17 able to make five larger pieces that I called Piece 1
18 through Piece 5.

19 Q And, of those larger pieces, which of those
20 larger pieces were you able to mechanically sit
21 together prior to comparing them to the taillight
22 housing?

23 A I'm sorry. Can you --

24 Q Sure. From your analysis of those larger
25 pieces and analyzing them together with other larger

1 pieces, what, if any, opinions did you draw? What, if
2 any, conclusions did you come to as far as your
3 analysis of those pieces?

4 A So for the larger pieces amongst Item -- like
5 the different items that fit together mechanically, I'd
6 say that those items were once a part of the same unit.

7 Q And so I guess what I'm asking, Mx. Vallier,
8 is with reference to, say, Item 7-6 or 7-5, of the
9 items in and of themselves, which of those items, if
10 any, were you able to find mechanically fit with each
11 other?

12 A Amongst like -- are you asking me like which
13 specific items made up like Piece 1?

14 Q Yes.

15 A Okay. So Piece 1 contained pieces from Item
16 7-5, 7-8, 7-10, 7-11, 7-13, 7-15 and 7-16.

17 Q And based on their mechanical fit, what, if
18 any, conclusion did you draw in reference to those
19 several items?

20 A That those specific pieces from all those
21 items were at one time together as part of a larger
22 unit.

23 Q And then what, if any, comparison or analysis
24 did you do of items between Item 7-15 and Item 7-16?

25 A So pieces from Item 7-15 and 7-16 were part of

1 Piece 1. I could look through my notes and see if they
2 are a part of any of the other pieces that I fit
3 together.

4 MR. LALLY: With the Court's permission.

5 THE COURT: Okay.

6 THE WITNESS: So Piece 2 consisted of pieces
7 from Item 7-15 and 7-16.

8 BY MR. LALLY:

9 Q And then with reference to Item 7-6 and 7-11,
10 what, if anything, did you observe between the pieces
11 of those?

12 A So Piece 3 consisted of pieces from Item 7-6
13 and 7-11.

14 Q And, similar to what you had described before
15 with 7-15 and 16 as far as them mechanically fitting
16 together, and now I'm talking about 7-6 and 7-11, what,
17 if any, conclusions did you draw in regard to that?

18 A That those pieces from Item 7-6 and Item 7-11
19 were at one time together as a larger unit.

20 Q And then, as far as Item 7-8, 7-9 and part of
21 7-16, what, if anything, were you able to do with
22 reference to those?

23 A So Piece No. 4 consisted of pieces from Item
24 7-8, 7-9 and 7-16.

25 Q And, as far as mechanically fitting, those

1 pieces together again, what, if any, conclusions did
2 you come to in reference to those Items 7-8, 7-9 and
3 7-16?

4 A That those pieces from Item 7-8, 7-9 and 7-16
5 were at one time together as a larger unit.

6 Q Now, lastly, with reference to Item 7-12 and
7 7-14, what, if any, analysis did you do with reference
8 to pieces from those items?

9 A I'm sorry. Which item?

10 Q 7-12 and 7-14.

11 A I have Item 7-11 and 7-12 that fit together
12 for Piece No. 5.

13 MR. LALLY: Your Honor, may what's been marked
14 as Exhibits 384 through 402, if I could ask to
15 publish some of those to the jury?

16 THE COURT: Yes.

17 MR. LALLY: Ms. Gilman, if I could have
18 Photograph 2069.

19 BY MR. LALLY:

20 Q Mx. Vallier, do you recognize what's up on the
21 screen as now Exhibit 384?

22 A I do.

23 Q What are we looking at here?

24 A Within Item 7-16, those are pieces that
25 mechanically fit together.

1 MR. LALLY: And, Ms. Gilman, if I could have
2 3096.

3 Q And, Mx. Vallier, do you recognize what's now
4 been marked as Exhibit 386?

5 A I do.

6 Q And what do you recognize that to be?

7 A That is what I called Piece 1. So a piece
8 made up of apparent plastic pieces from many of the
9 different items.

10 MR. LALLY: And, Ms. Gilman, if I could ask
11 you to just zoom in a little on this so I can go
12 back over it.

13 THE COURT: What exhibit number is this,
14 Mr. Lally?

15 MR. LALLY: Yes, Your Honor. This is 386.

16 BY MR. LALLY:

17 Q And from this sort of zoomed-in version of
18 386, Mx. Vallier, are you able to now see some of the
19 stickers or the evidence stickers that you recorded
20 labeling each of these pieces?

21 A Yes.

22 Q And, if you could, just using the laser
23 pointer, just draw the jury's attention to where those
24 would be in this photograph.

25 A So these labels right here are the labels I

1 put on each piece individually when I initially examine
2 it. So all the little white labels.

3 MR. LALLY: And, Ms. Gilman, if I could have
4 2097.

5 Q Mx. Vallier, do you recognize what is up on
6 the screen and what has now been marked as Exhibit 387?

7 A I do.

8 Q What do you recognize that to be?

9 A That is still Piece 1. It's just from a
10 different angle.

11 MR. LALLY: Ms. Gilman, if I could have 2101?

12 Q And, Mx. Vallier, do you recognize what's up
13 on the screen now that's been marked as Exhibit 390?

14 A I do.

15 Q What are we looking at here?

16 A That's still Piece 1 from another photo taken
17 from another angle.

18 MR. LALLY: And, Ms. Gilman, if I could have
19 2103.

20 Q Mx. Vallier, do you recognize what's up on the
21 screen, which is now marked as Exhibit 392?

22 A I do.

23 Q What are we looking at in Exhibit 397?

24 A That was another angle of Piece 1.

25 MR. LALLY: Ms. Gilman, if I could have

1 Photograph 2107?

2 Q Mx. Vallier, do you recognize what's up on the
3 screen which has now been marked as Exhibit 395?

4 A I do.

5 Q And what are we looking at in Exhibit 395?

6 A May I look at my notes?

7 THE COURT: Sure.

8 THE WITNESS: Okay. So that is Piece 2.

9 MR. LALLY: And, Ms. Gilman, if I could have
10 2110. Ms. Gilman, if you could just zoom in a
11 little bit on the stickers on this photograph?

12 BY MR. LALLY:

13 Q And, Mx. Vallier, do you recognize what's up
14 on the screen which has now been marked as Exhibit 398?

15 A I do.

16 Q And what do you recognize that to be?

17 A That is Piece 3.

18 MR. LALLY: And, Ms. Gilman, if I could have
19 Photograph 2111. And, Ms. Gilman, if you could
20 zoom in toward the stickers a little.

21 Q Mx. Vallier, do you recognize what's up on the
22 screen which has now been marked as Exhibit 399?

23 A I do.

24 Q And what do you recognize that to be?

25 A That is Piece 4.

1 MR. LALLY: And, Ms. Gilman, if I could have
2 Photograph 2113. Again, if you could zoom in just
3 a little. Thank you.

4 Q Mx. Vallier, do you recognize what's up on the
5 screen now that's been marked as Exhibit 401?

6 A I do.

7 Q And what do you recognize that to be?

8 A That is Piece 5.

9 MR. LALLY: Thank you. Your Honor, may I
10 approach?

11 THE COURT: Yes.

12 BY MR. LALLY:

13 Q Mx. Vallier, earlier I had put before you
14 another 23 photographs. Do you recognize what's
15 depicted in those 23 photographs?

16 A I do.

17 Q What do you recognize that to be?

18 A That's comparisons between Item 3-1 and
19 Piece 1.

20 Q And Item 3-1, again, was the taillight; is
21 that correct?

22 A Correct.

23 THE COURT: Your Honor, the Commonwealth would
24 seek to introduce and admit as the next exhibits.

25 MR. YANNETTI: No objection, Your Honor.

1 (Whereupon, photographs were entered and marked
2 Exhibits No. 403 through 434 in Evidence.)

3 THE COURT REPORTER: Exhibits 403 through 434,
4 Your Honor.

5 THE COURT: Thank you.

6 MR. LALLY: Your Honor, with the Court's
7 permission, if I may publish some of these
8 photographs for the jury?

9 THE COURT: Yes.

10 MR. LALLY: Ms. Gilman, if I could have
11 Photograph 2156.

12 BY MR. LALLY:

13 Q Mx. Vallier, do you recognize what's now up on
14 the screen that's been marked as Exhibit 403?

15 A I do.

16 Q And what do you recognize that to be?

17 A That is one of the photos comparing Item 3-1
18 and Piece 1.

19 MR. LALLY: Ms. Gilman, if I could have
20 Photograph 2125.

21 Q Mx. Vallier, do you recognize what's on the
22 screen which has now been marked as Exhibit 411?

23 A I do.

24 Q And what do you recognize that to be?

25 A That is the contents of Item 3-1.

1 Q And that's prior to you -- at what stage of
2 this analysis or comparison process is that?

3 A So that's when I initially looked at Item 3-1.

4 MR. LALLY: Your Honor, if I may have a
5 moment?

6 THE COURT: Yes.

7 MR. LALLY: Ms. Gilman, if I could have
8 Photograph 2150.

9 Q And, Mx. Vallier, do you recognize what's up
10 on the screen which has been marked as Exhibit 431?

11 A I do.

12 Q And what are we looking at in 431?

13 A So on the left is Item 3-1, Piece "A." And
14 then on the right is Piece 1.

15 MR. LALLY: And, Ms. Gilman, if I could have
16 2151.

17 Q Mx. Vallier, do you recognize what's up on the
18 screen which has now been marked as Exhibit 432?

19 A I do.

20 Q What are we looking at in 432?

21 A That is Piece 1 on top of Item 3-1, mechanical
22 fit.

23 Q Is that the mechanical fit that you were
24 talking about earlier in your testimony?

25 A Yes.

1 Q So, Mx. Vallier, in reference to those items
2 that you testified to earlier in Item 3-1, the
3 taillight housing, what, if any, conclusions regarding
4 those items as far as a physical match, what, if any,
5 conclusions did you come to?

6 A That Item 3-1 and the pieces that make up Item
7 -- or the pieces that make up Piece 1 were at one time
8 together as a larger unit.

9 MR. LALLY: Thank you very much. I have no
10 further questions.

11 MR. YANNETTI: May we approach, Your Honor?

12 THE COURT: Yes. Jurors, feel free to stand
13 up.

14 (Whereupon, there was a sidebar conference as
15 follows:)

16 MR. YANNETTI: Your Honor, I want this to go
17 as smoothly as possible. I have photographs that
18 I ultimately will be displaying to the jury. Nine
19 of them, I believe, are in evidence. Two are not.
20 The ones that are not are the front evidence bags
21 of some of the exhibits that were mentioned by
22 Mr. Lally. I've alerted them of what I want to
23 introduce.

24 THE COURT: Do you have any objection?

25 MR. LALLY: No. I think they should all be

1 entered.

2 THE COURT: I can't hear you.

3 MR. LALLY: I'm sorry. I don't have any
4 objection. I think they should all be in evidence.
5 No objection.

6 THE COURT: Do you think they are in evidence?

7 MR. LALLY: That was my intention, was to put
8 a photograph of each of the evidence bags in. But,
9 if they are not --

10 MR. YANNETTI: I think what he did --

11 THE COURT: No. That's okay. You don't think
12 they are.

13 MR. YANNETTI: I don't think they are.

14 THE COURT: And you can't tell me where they
15 are.

16 MR. YANNETTI: I can't. I mean, with regard
17 to the court reporter, I have my own internal
18 numbering system. If we could put the exhibit
19 sticker over my writing, is that okay?

20 THE COURT REPORTER: Yes.

21 MR. YANNETTI: Terrific. That's it.

22 THE COURT: Okay.

23 MR. YANNETTI: Thank you, Your Honor.

24 THE COURT: We will get this witness out of
25 here. I promised the judge --

1 MR. YANNETTI: I don't have more than -- I
2 mean, I don't think I'll be 30 minutes.

3 THE COURT: Okay.

4 (Whereupon, the sidebar conference concluded.)

5 CROSS-EXAMINATION

6 BY MR. YANNETTI:

7 Q Good morning.

8 A Good morning.

9 Q You have testified that when evidence comes
10 into the crime lab, it is given crime lab evidence or
11 item numbers, correct?

12 A It is given a case number, and then each piece
13 of evidence gets its own individual item number.

14 Q Okay. And if you would just keep your voice
15 up because we want to make sure that the last jurors
16 here can hear you.

17 Consistent with that policy, the evidence that
18 your lab received in this case was also given those
19 item numbers, correct?

20 A Correct.

21 Q So I'd like to ask you about one particular
22 item number in this case. 7-18.18. Would you agree
23 with me, and feel free to check your records, but would
24 you agree with me that that was the item number given
25 to, quote, "debris from orange tee shirt and gray long-

1 sleeve shirt," end quote?

2 A If I can --

3 THE COURT: You can.

4 BY MR. YANNETTI:

5 Q And, again, it's 7-18.18.

6 A Debris from orange tee shirt, 7-17, and gray
7 long-sleeve shirt, 7-18-JR.

8 Q Terrific. Item 7-18.18 did not include the
9 orange tee shirt, itself, correct?

10 A No.

11 Q I believe that you just testified that was
12 given a different item number which was 7-17?

13 A I believe so.

14 Q And 7-18.18 also did not include the gray
15 long-sleeve shirt either, correct?

16 A I didn't look at 7-17 or 7-18. I only
17 received the debris from.

18 Q Okay. Yes. That's my point. So with regard
19 to the orange tee shirt and the gray long-sleeve shirt,
20 those were given separate item numbers, and you
21 examined what was the debris allegedly from those
22 shirts, right, 7-18.18, correct?

23 A Correct.

24 Q And that debris consisted of different
25 categories, did it not?

1 A There were different pieces of -- there were
2 different things inside of it, yes.

3 Q Yes. Different categories of things, correct?

4 A Sure.

5 Q All right. So one category was dirt and
6 debris, correct?

7 A Yes.

8 Q You did not test the dirt and debris, correct?

9 A Correct.

10 Q Another category was or were, I should say,
11 several apparent hairs?

12 A Yes.

13 Q And you did not test those hairs, correct?

14 A Correct.

15 Q And another category I believe you've already
16 testified to consisted of several pieces of red
17 apparent plastic and one piece of clear apparent
18 plastic that measured an eighth of an inch by a
19 sixteenth of an inch. Is that accurate?

20 A Okay. So there were several pieces of red
21 apparent plastic and then one piece of clear apparent
22 plastic measuring approximately one-eighth of an inch
23 by one-sixteenth of an inch. Yes.

24 Q Okay. I apologize for continually reminding
25 you, but I am just mindful that everybody needs to hear

1 you. So to the best you can if you can just keep your
2 voice up. I'll try to do the same.

3 Q So when those several pieces of apparent red
4 plastic and one piece of apparent clear plastic came
5 into your possession, those pieces were obviously not
6 imbedded in either shirt when you examined them,
7 correct?

8 A I don't know. I didn't examine the shirt.

9 Q Well, so to my question, the pieces that you
10 saw were not imbedded in the shirt when you examined
11 them, correct?

12 A Correct.

13 Q And, again, that's because you never took
14 possession of any shirt in this case, correct?

15 A Correct.

16 Q The pieces were loose and they were not
17 imbedded in anything, correct?

18 A The pieces were -- well, I examined the debris
19 from the shirt. I don't know what the person who
20 packaged it did to collect that.

21 Q Okay. And so it goes without saying that you
22 never saw those pieces on either the orange shirt or
23 the gray long-sleeve shirt, correct?

24 A I did not.

25 Q And you obviously had no control over how the

1 evidence was handled before it came into your
2 possession, correct?

3 A We have a chain of custody in the laboratory.
4 But I did not follow the evidence as it went through
5 the chain.

6 Q Okay. And we'll talk about the chain of
7 custody in a minute.

8 Before this evidence came into your
9 possession, you did not witness who seized it, correct?

10 A Correct.

11 Q You did not witness who handled it, correct?

12 A Correct.

13 Q Before it came into your possession, you don't
14 know who had access to that evidence, correct?

15 A So all of our evidence is stored in locked
16 facilities.

17 Q Right. But I guess let me modify that
18 question. Before it came to your lab, you don't know
19 who had access to that evidence, correct?

20 A Correct.

21 Q You also don't know before it came to your lab
22 whether the shirts in question were at all times kept
23 separate from the red or clear plastic pieces of --
24 pieces of plastic that were in the possession of
25 certain members of the state police, correct?

1 A Correct.

2 Q The chain of custody at the crime lab started
3 with noting the state trooper who actually delivered
4 the evidence to your lab, along with the date, correct?

5 A I'm sorry. Could you repeat the question?

6 Q Sure. The chain of custody at the crime lab
7 starts with noting which state trooper delivered the
8 evidence to your lab and the date that he or she
9 delivered it, correct?

10 A Or a crime scene responder. But the person
11 who drops off the evidence to the laboratory, yes.

12 Q Okay. And, in this case, which particular
13 state trooper delivered the orange tee shirt and gray
14 long-sleeve shirt to your crime lab?

15 A I don't know.

16 Q Well, which state trooper delivered the pieces
17 of red and clear plastic, pieces, I should say, that
18 you just testified about?

19 A The Item 7-5 to 7-19.

20 Q Right. The several pieces of red apparent
21 plastic and one piece of clear apparent plastic
22 measuring an eighth of an inch by one-sixteenth of an
23 inch. That's what I'm referring to.

24 A Sorry. Could you repeat the question?

25 Q Yes. You understand what I'm talking about,

1 right, in terms of the several pieces of red apparent
2 plastic and then the one piece of clear plastic that
3 you have the measurements for?

4 A Are you talking about the apparent plastic
5 that I noted in the debris of 7-18.18?

6 Q Correct. Which state trooper was it that
7 delivered that?

8 THE COURT: Do you know?

9 THE WITNESS: Sorry. That's an odd question.

10 THE COURT: You'll have to repeat that please.

11 THE WITNESS: So evidence is submitted --

12 THE COURT: No. To the point you just said
13 that he missed.

14 THE WITNESS: Oh. That's kind of an odd
15 question.

16 BY MR. YANNETTI:

17 Q Oh. Not for me.

18 A So --

19 Q Do you have a record of that?

20 A A record of what?

21 Q A record of which state trooper delivered that
22 debris to the lab.

23 A So it wouldn't be delivered as like debris. It
24 would be delivered as the individual piece of clothing
25 which then got assigned Item 7-18, I believe. And then

1 as someone analyzes it, each offshoot of that piece of
2 evidence gets a 7-18.-something. So the debris
3 collected from that shirt would be a 7-18.18.

4 Q Okay. All right. Listen, when those several
5 -- actually, let me strike that. Let me get to where I
6 was.

7 THE COURT: Take your time, Mr. Yannetti.

8 MR. YANNETTI: Thank you.

9 BY MR. YANNETTI:

10 Q Okay. So I want to confirm with you that when
11 you were assigned to this case, you were aware that
12 when you were assigned to this case, you were aware
13 that the date of the incident was January 29th of 2022,
14 correct?

15 A Yes.

16 Q All right. And it's your testimony that you
17 don't know which state trooper delivered the shirts to
18 the lab, correct?

19 A I could look at my notes because --

20 Q Yes. If you would --

21 A Chain of custody.

22 Q -- check your notes for that, please.

23 A Okay. So Submission 7, which is everything
24 that's Item 7- in this case was submitted by
25 Trooper Michael Proctor, I believe.

1 Q Okay. That was the answer to the odd
2 question. Thank you.

3 How long after January 29th of 2022, according
4 to your records, did Michael Proctor deliver that
5 clothing to the crime lab?

6 A It was delivered on March 14th, 2022.

7 Q Okay. So about six weeks or so after January
8 29th? Is that accurate?

9 A Sure.

10 Q Given that your lab received this evidence on
11 March 14th of 2022, you can't testify to the chain of
12 custody of the clothing or the pieces of plastic prior
13 to March 14th of 2022, correct?

14 A Correct.

15 Q And, except for the taillight housing that was
16 seized by Maureen Hartnett, except for that, your chain
17 of custody at the lab for the two shirts plus the
18 pieces of plastic in 7-18.18, that began on March 14th
19 of 2022, correct?

20 A Correct.

21 Q So between January 29th of 2022 and March 14th
22 of 2022, you do not know what Michael Proctor did or
23 didn't do with the orange tee shirt and gray long-
24 sleeve shirt, correct?

25 MR. LALLY: Objection.

1 THE COURT: I'll allow it.

2 THE WITNESS: I don't know.

3 BY MR. YANNETTI:

4 Q Now, I'd like to discuss with you, if I might,
5 Michael Proctor's submissions of the pieces of plastic
6 that you've testified about. Your lab received from
7 Michael Proctor several different evidence bags
8 containing red, clear and black pieces of plastic,
9 correct?

10 A Correct.

11 Q Some of those evidence bags contained
12 relatively small pieces of plastic in them, correct?

13 A Correct.

14 Q And some of those evidence bags contained
15 larger pieces, right?

16 A Correct.

17 Q The evidence bags that you received listed the
18 dates of recovery of those pieces of plastic, did they
19 not?

20 A I believe so.

21 Q And the evidence bags that you received also
22 listed the officer who recovered the plastic pieces,
23 right?

24 A I believe so.

25 Q And, again, when you receive those evidence

1 bags, whatever numbers are on them, your lab assigns
2 them your item number, correct?

3 A Correct.

4 Q So I'd like to ask you first about Item No. 7-
5 8. Do you have a record of that?

6 A Yes.

7 Q Now, that evidence bag, Item No. 7-8,
8 contained multiple pieces of red, black and clear
9 pieces of plastic, correct?

10 A Contained 14 pieces of red, black, colorless
11 and silver colored apparent plastic, yes.

12 Q Okay. And the date of collection was February
13 3rd of 2022?

14 A Item 7-8?

15 Q Yes.

16 A February 3rd, 2022.

17 Q Okay. If you have that in front of you, that
18 was also collected by a trooper named DiCicco, correct?

19 A Yes.

20 MR. YANNETTI: If I may approach, Your Honor?

21 THE COURT: Yes.

22 BY MR. YANNETTI:

23 Q So I show you a photograph. Can you identify
24 what that is?

25 A Yes.

1 Q What is that?

2 A That is the handwritten label on Item 7-8.

3 Q That would have been the evidence bag that
4 your lab received and gave Item No. 7-8 to it, correct?

5 A Correct.

6 Q And that appears to be an exact, you know,
7 photograph of the actual bag?

8 THE COURT: I believe there is no objection to
9 it.

10 MR. YANNETTI: Yes. That's true. Okay. May
11 I offer that, Your Honor?

12 THE COURT: Sure.

13 (Whereupon, photograph was entered and marked
14 Exhibit No. 435 in Evidence.)

15 THE COURT REPORTER: Exhibit 435, Your Honor.

16 THE COURT: Thank you.

17 MR. YANNETTI: May I display that for the
18 jury, Your Honor?

19 THE COURT: Okay.

20 BY MR. YANNETTI:

21 Q That is what I just showed you on the screen,
22 correct?

23 A Correct.

24 Q And that's where it's indicated what the date
25 of collection was and which trooper collected it,

1 correct?

2 A Correct.

3 MR. YANNETTI: All right. If we can turn the
4 lights on for a minute.

5 Q And you would agree with me that that date,
6 February 3rd of 2022, was only five days after the
7 January 29th blizzard, correct?

8 A I don't recall the dates of blizzards, but --

9 Q Oh, okay. Let's put it the date of the
10 incident. You had previously testified that was
11 January 29th, correct?

12 A Correct.

13 Q And February 3rd was five days after that,
14 right?

15 A Yes.

16 Q All right.

17 MR. YANNETTI: I'd like to show Exhibit 279,
18 please.

19 Q Now, Exhibit 279 which is displayed on the
20 screen now, this is one of the photos taken of some of
21 the contents of Item 7-8; is it not?

22 A That is the entirety of the contents of the
23 Item 7-8.

24 Q Okay. You would agree with me that those were
25 the pieces that were inside that evidence bag labeled

1 February 3rd as the date of recovery, five days after
2 January 29, correct?

3 A Correct.

4 Q And you see that there are some relatively
5 small pieces that were allegedly found on February 3rd,
6 correct?

7 A Correct.

8 MR. YANNETTI: Your Honor, I'm continually
9 showing photographs. We can turn the lights on and
10 off. Whatever the Court's preference is.

11 THE COURT: You can just tell the court
12 officer when you want the lights turned off.

13 MR. YANNETTI: All right. They get turned on
14 for like a question or two and then I turn them
15 back on.

16 THE COURT: Whatever you want to do.

17 MR. YANNETTI: That's fine.

18 BY MR. YANNETTI:

19 Q So I'd like to contrast some of those pieces
20 with some of the pieces that were found days and weeks
21 later by Michael Proctor. And I'd like to start first
22 with Item 7-13. This is --

23 MR. YANNETTI: I'd like to display Exhibit 343
24 which, Mr. Bates, is Item 5. Okay.

25 Q You were previously asked about Exhibit 343

1 which is now displayed on the screen?

2 A Yes.

3 Q And that is the first evidence bag submitted
4 by Trooper Proctor; is it not?

5 A In my notes -- sorry.

6 Q Let me rephrase that. He submitted evidence
7 bags all at one time, correct?

8 A Yes.

9 Q All on 3-14. So when I said the first
10 evidence bag, I meant the earliest date of collection.
11 I should have asked it that way, February 8th of 2022.

12 A Sure. I don't know all of the dates that each
13 item was collected on.

14 Q Okay. But, in any case, those -- according
15 to the evidence bag that you received, the contents of
16 that bag which were, again, pieces of plastic,
17 correct --

18 A Pieces of apparent plastic.

19 Q Pieces of apparent plastic. Those were found
20 five days after the pieces that you previously
21 testified were found by DiCicco, right, on February
22 3rd?

23 A Correct.

24 Q All right. And February 8th was now 10 days
25 after January 29th, correct?

1 A Correct.

2 MR. YANNETTI: Can I have displayed Exhibit
3 346, which is 5A.

4 Q Okay. Looking at Exhibit 3:46, you will agree
5 with me that this particular piece found on February
6 8th by Trooper Proctor was quite a bit larger than many
7 of the plastic pieces that had been found by Trooper
8 DiCicco five days earlier on February 3rd, correct?

9 A I mean, there were a variety of sizes of
10 pieces on the other one. But it is an approximately
11 four-ish inches.

12 Q Right. But my point is Exhibit 346, what's
13 displayed, that plastic piece, is quite a bit bigger
14 than the small pieces that were contained in DiCicco's
15 collection, correct?

16 A Than some of those pieces, yes.

17 Q Yes. Okay. Now, I'd like to move on to Item
18 7-15.

19 MR. YANNETTI: If I could show Exhibit 352,
20 please, which is Item 8, Mr. Bates.

21 Q Okay. Item 7-15, the evidence bag that
22 supports that, lists the law enforcement officer who
23 recovered the plastic pieces as Trooper Michael
24 Proctor, correct?

25 A Correct.

1 Q And the date of recovery of those pieces was
2 February 11th of 2022, correct?

3 A Correct.

4 Q Again, harkening back to DiCicco's evidence
5 bag from February 3rd, this is now eight days later
6 that these pieces are found, correct?

7 A Correct.

8 Q And it's now almost two weeks that these
9 pieces are found after January 29th, right, 13 days?

10 A Correct.

11 MR. YANNETTI: All right. If I could show
12 Exhibit 355, which is Exhibit 8A, Mr. Bates.

13 Q You would agree with me that this particular
14 piece found by Trooper Proctor on February 11th is also
15 quite a bit larger than those small pieces that were
16 contained in Trooper DiCicco's evidence collection,
17 correct, on February 3rd?

18 A Correct.

19 MR. YANNETTI: All right. I'd like to move on
20 to Item 7-16, which is No. 9, Mr. Bates.

21 THE COURT: What exhibit number is this?

22 MR. YANNETTI: This has not yet been
23 introduced. So I'm about to introduce it. And, in
24 fact, why don't I do that first.

25 THE COURT: Okay.

1 MR. YANNETTI: If I can approach the witness?

2 THE COURT: Sure. There is no objection to
3 this, Mr. Lally?

4 MR. YANNETTI: I'll just have the witness
5 identify it and then offer it.

6 BY MR. YANNETTI:

7 Q Do you recognize what that photograph depicts
8 that I've handed to you?

9 A I do.

10 Q What is it?

11 A The handwritten label from Item 7-16.

12 MR. YANNETTI: I would offer it, Your Honor.

13 THE COURT: Okay.

14 (Whereupon, photograph was entered and marked
15 Exhibit No. 436 in Evidence.)

16 THE COURT REPORTER: Exhibit 436.

17 MR. YANNETTI: So if I can display Exhibit
18 436, which is No. 9?

19 THE COURT: Sure.

20 BY MR. YANNETTI:

21 Q And, again, you just identified that as the
22 bag supporting item 7-16?

23 A Correct.

24 Q That also lists the law enforcement officer
25 who recovered the plastic pieces as Trooper Michael

1 Proctor, correct?

2 A Correct.

3 Q And the date of recovery of those plastic
4 pieces was February 18th of 2022, correct?

5 A Correct.

6 Q So Trooper Proctor is now finding these pieces
7 over two weeks after the smaller pieces were found by
8 Trooper DiCicco, correct?

9 MR. LALLY: Objection.

10 THE COURT: Sustained.

11 BY MR. YANNETTI:

12 Q February 18th is nearly three weeks after
13 January 29th; is it not?

14 A Correct.

15 MR. YANNETTI: All right. If I could show
16 Exhibit 380, which is 9A, Mr. Bates.

17 Q You would agree with me that this particular
18 piece found by Trooper Proctor on February 18th is also
19 quite a bit larger than those smaller plastic pieces
20 found by Trooper DiCicco on February 3rd, correct?

21 A Correct.

22 Q This one appears to be about 11 cm. long
23 approximately?

24 A Sure.

25 MR. YANNETTI: All right. If I could show

1 Exhibit 376, which is 9B, Mr. Bates.

2 Q Okay. And you would agree with me that this
3 particular piece found by Trooper Proctor on February
4 18th is also quite a bit larger than those smaller
5 plastic pieces found by Trooper DiCicco back on
6 February 3rd, correct?

7 A Correct.

8 Q In fact, that appears to be larger than the
9 piece that you just identified in Exhibit 380, correct?

10 A The one that was just on the screen?

11 Q Right.

12 A Yes.

13 Q This one appears to be maybe 18 cm. long?
14 Does that seem accurate?

15 A I mean, it's longer than the ruler.

16 Q Okay. Yes.

17 MR. YANNETTI: Finally, if we could show
18 Exhibit 378, which is 9C, Mr. Bates.

19 Q You would agree with me that this particular
20 piece found by Trooper Proctor on February 18th is even
21 larger than the last one that we just saw, correct?

22 A In length, yes.

23 Q Okay. This appears to be about 19 cm. longer?

24 A I mean, longer than the ruler that's up there.

25 Q Okay.

1 A I have the actual measurement in my notes.

2 Q Sure. And the precise measurement is not
3 important. I'm just getting at the relative
4 comparison. This one is certainly quite a bit larger
5 than the smaller pieces found by Trooper DiCicco back
6 on February 3rd, correct?

7 A Correct.

8 Q This larger piece of red plastic, like the
9 previous two that you just identified, were all found
10 on February 18th, about three weeks after January 29th,
11 correct, according to your records?

12 A Correct.

13 Q And regarding these last three evidence bags
14 labeled Item No. 7-13, 7-15 and 7-16 in February of
15 2022, from February 8th to the 18th, those are all
16 plastic pieces collected by Michael Proctor, correct?

17 A Correct.

18 Q And, in addition to collecting those pieces --

19 THE COURT: Can we turn the lights on,
20 Mr. Yannetti?

21 MR. YANNETTI: Oh, yes. I'm sorry.

22 THE COURT: And would you please take that
23 down.

24 MR. YANNETTI: Yes.

25 BY MR. YANNETTI:

1 Q In addition to collecting those plastic pieces
2 on all those different days, Michael Proctor was also
3 the person to hand deliver those last three evidence
4 bags all on March 14th of 2022, correct?

5 A Correct.

6 Q And you do not know what Michael Proctor did
7 or didn't do with those evidence bags of pieces of
8 taillight prior to March 14th of 2022 when your lab
9 received them, correct?

10 MR. LALLY: Objection.

11 THE COURT: I am going to sustain it. It was
12 already asked.

13 BY MR. YANNETTI:

14 Q Now, the taillight of that Lexus sits in the
15 housing of the Lexus, the taillight housing such that
16 part of the taillight faces the rear of the car and
17 part of the taillight loops around and faces the
18 passenger side of the car, correct?

19 A Sure.

20 Q All right. Because it's on the corner?

21 A Sure. Yes.

22 Q You'd agree with me that once you received the
23 final pieces of taillight from Michael Proctor on March
24 14th or once your lab received that, you were then able
25 to piece together a majority of the taillight, correct?

1 A So I wasn't assigned this case until later
2 once everything had already been submitted to the
3 laboratory.

4 Q Right. So it was true that after
5 Michael Proctor submitted these pieces of taillight on
6 March 14th, it was after that that you were able to do
7 the reconstruction that you've testified about,
8 correct?

9 A Correct.

10 MR. YANNETTI: If I could have Exhibit 432
11 displayed, which is Image 2151, Mr. Bates.

12 Q That is the reconstruction, the final
13 reconstruction that you were able to do, correct?

14 A Correct.

15 Q You would agree with me that there is one
16 section of that taillight that was missing completely,
17 correct?

18 A Correct.

19 Q And that missing section is noticeably visible
20 in your reconstruction; is it not?

21 A Yes.

22 Q And do you still have that laser pointer
23 there?

24 A I do.

25 Q Would you please point to the section of

1 taillight that's missing?

2 A (Indicating.)

3 Q Okay. There appears to be a hole on the upper
4 left side of that exhibit?

5 A Is that a question?

6 Q Yes. It actually was. I should have said
7 "right" or "correct," but I didn't.

8 A Yes.

9 Q And you would agree with me -- and, if we
10 could zoom out, Mr. Bates.

11 You would agree with me that the portion of
12 taillight that you did not have was strictly on the
13 rear side of the taillight, if I can call it that?

14 A I am not sure what orientation that goes onto
15 a car.

16 Q Okay. But, in any case, to this day, you do
17 not know where the pieces that make up that hole are or
18 what happened to them, correct?

19 A I do not.

20 MR. YANNETTI: If I may have a moment?

21 THE COURT: Yes.

22 MR. YANNETTI: No further questions. Thank
23 you.

24 THE COURT: All right. Mr. Lally?

25 MR. LALLY: Thank you, Your Honor.

REDIRECT EXAMINATION

BY MR. LALLY:

Q Now, Mx. Vallier, with reference to Item 7-17 and 18, the orange tee shirt and the gray sweatshirt, fair to say you never actually physically saw those items, correct?

A The clothing? No, I did not.

Q Now, the debris that was provided, are you familiar with how that process or who got those debris items from those clothing items?

A I can look at my notes and tell you who submitted it or who transferred it to our unit.

Q If you could.

THE COURT: The witness is ready, Mr. Lally.

MR. LALLY: I'm sorry.

Q And, from your view, who was that person?

A Maureen Hartnett.

Q Now, as far as the eighth of an inch by a sixteenth of an inch red and clear apparent plastic pieces that you observed within that debris, that was mixed in with other debris as far as dirt, fibers, things of that nature; is that correct?

A Yes.

Q And the eighth of an inch by sixteenth of an inch pieces that were contained within that debris, was

1 that something that you observed visually or
2 microscopically or both?

3 A So usually I take overall pictures of the
4 debris and then I'll look through the stereo zoom to
5 see if there is anything that looks different. And
6 then I'll take a picture of that. So that is what I
7 do. I look through the stereo zoom.

8 Q Now, as far as the collection of evidence,
9 fair to say you don't know who was a trooper, who was
10 there when they were collected, how many troopers were
11 there when it was collected, when it was collected,
12 anything to do with that, fair to say?

13 A Yes.

14 Q And, as far as the pieces that you've
15 testified to as far as fitting them mechanically
16 together, all of those pieces then fit mechanically
17 onto the taillight housing taken from the defendant's
18 vehicle, correct?

19 A Correct.

20 MR. LALLY: Nothing further.

21 MR. YANNETTI: Nothing on that.

22 THE COURT: All right. Mx. Vallier, you are
23 all set. Thank you very much.

24 THE WITNESS: Thank you, Your Honor.

25 THE COURT: Jurors, do you want to take your

1 morning break now or wait? People are saying
2 "yes," So we will take the morning recess.
3 (Whereupon, the jury is escorted from the courtroom
4 for a brief recess.)

5 THE COURT: I'll see counsel at sidebar,
6 please.

7 (Whereupon, there was a sidebar conference as
8 follows:)

9 THE COURT: So is your next witness an out-of-
10 order witness?

11 MR. LALLY: Yes.

12 THE COURT: All right.

13 MR. YANNETTI: And this will actually be
14 Mr. Jackson's witness.

15 THE COURT: There is no objection to that?

16 MR. JACKSON: No. There is no objection. I
17 will tell the Court, as I indicated to Mr. Lally,
18 there is one item that I'd like to have marked that
19 he had not seen until this morning. But I haven't
20 done it because it was out of order. So I did it
21 last night and I gave it to him this morning.

22 This witness I expect some complicated
23 testimony about testing, and it's my effort to
24 clear that complication up. I can show it to the
25 Court now.

1 THE COURT: Is it intended as a chalk or an
2 exhibit?

3 MR. JACKSON: I'd begun the idea as a chalk
4 and now I'd like to make it as an exhibit because
5 it's extremely helpful, I think.

6 THE COURT: All right.

7 MR. JACKSON: To me.

8 THE COURT: Fair enough.

9 MR. YANNETTI: Oh, I think to the jury too.

10 THE COURT: So have you seen it or you haven't
11 seen it?

12 MR. LALLY: I have seen it. I don't think it
13 comes in as an exhibit. But, if Mr. Jackson wants
14 to use it as a chalk, I have no objection to that.
15 There are some things that are incorrect on it, but
16 I think that's --

17 THE COURT: If it's incorrect --

18 MR. JACKSON: There is one typo. I changed 3-
19 1 to 3-2. Is that what you're talking about?

20 MR. LALLY: Yes.

21 MR. JACKSON: Yes. That was my fault.

22 THE COURT: Is that the only thing? Because I
23 was going to say if it's incorrect, I can't let you
24 use it even as a chalk.

25 MR. JACKSON: I just changed it. That's a

1 typo that should be 3-2.

2 MR. LALLY: My issue is all of that. If you
3 want to show photos of the items, that's fine.
4 But, as far as -- I don't know what that is or how
5 this witness would know what those are.

6 THE COURT: Okay.

7 MR. JACKSON: As long as I can show it to the
8 jurors then I don't necessarily care that it's an
9 exhibit as long as it can be displayed to the
10 jurors as we are talking about these items.

11 THE COURT: So you want each one to come
12 individually as you're going through it, not all at
13 once like this?

14 MR. JACKSON: That's right. It would be all
15 at once like this, and then I'll ask her -- these
16 are comparisons. "A," "B," "C," "D" and "E" are
17 pieces of glass. "A" does not match the cup. It
18 does not match the three pieces -- I'm sorry -- the
19 nine pieces found by Bukhenik. It does not match
20 the one piece found by --

21 THE COURT: Okay. So this is actually
22 argument, Mr. Jackson.

23 MR. JACKSON: It could be argument except it's
24 factual. Everything on it is factual. The pieces
25 do match certain things and don't match other

1 things.

2 THE COURT: I understand that, but I'm putting
3 it out there, pulling it altogether and arguing it
4 for the jury.

5 If you don't have a problem with it as a
6 chalk, that's fine. Is this the only copy you
7 have?

8 MR. LALLY: Yes. And I do have an issue with
9 that as a chalk. The photograph's fine if he wants
10 to ask questions in relation to what's depicted
11 there. But depicting that up on the screen for the
12 jury is just inappropriate.

13 THE COURT: All right. So there is an
14 objection to it as a chalk. We will see how the
15 testimony comes in.

16 MR. JACKSON: I'll get the testimony out and
17 then I'll ask for permission if I can then --

18 THE COURT: We will come to sidebar. So I
19 would like a copy of this.

20 MR. JACKSON: Sure. Let me give you the right
21 one, Judge, that has the typo fixed. I just
22 printed it out.

23 THE COURT: Okay. And we'll mark it for
24 identification.

25 THE COURT REPORTER: That will be "WW" for

1 Identification for the record.

2 (Whereupon, chain of custody document was entered
3 and marked Exhibit "VV" for Identification.)

4 (Whereupon, chain of custody document was entered
5 and marked "WW" for Identification.)

6 THE COURT: We will take a 15-minute break.
7 We will come back at 11:00 o'clock.

8 MR. YANNETTI: Thank you.

9 MR. JACKSON: Thank you, Your Honor.

10 (Whereupon, the sidebar conference concluded and a
11 brief recess was taken.)

12 (Court resumes)

13 (Defendant present. Jury present.)

14 THE COURT: All right. Mr. Lally, your next
15 witness, please.

16 MR. LALLY: Yes, Your Honor. The Commonwealth
17 would call Ms. Christina Hanley to the stand.

18 Whereupon,

19 CHRISTINA HANLEY

20 having been first duly sworn, was examined and
21 testified under oath as follows:

22 THE CLERK: I really need you to keep your
23 voice up.

24 THE COURT: All right. Whenever you're ready,
25 Mr. Lally.

1 MR. LALLY: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MR. LALLY:

4 Q Good morning, ma'am.

5 A Good morning.

6 Q Could you please state your name and spell
7 your last name for the jury?

8 A Sure. It's Christina Hanley. Hanley is
9 spelled H-A-N-L-E-Y.

10 Q And what do you do for work, ma'am?

11 A I am a forensic scientist at the Massachusetts
12 State Police Crime Laboratory.

13 Q And how long have you been at the
14 Massachusetts State Police Crime Laboratory?

15 A I have been there for approximately 16 years.

16 Q Now, ma'am, if I could ask you just a little
17 bit about your educational background starting with
18 where did you go and what, if any, degree did you
19 receive with regard to your undergraduate?

20 A I have a Bachelor of Science in Chemistry with
21 a concentration in Forensics from Merrimack College.

22 Q And then after receiving those degrees from
23 Merrimack, where did you go from there?

24 A I began working at the Massachusetts State
25 Police Crime Lab in 2008.

1 Q And, from your work there in 2008, what did
2 you do next?

3 A So I began as a Chemist I in the drug
4 identification unit. Once I completed my training in
5 there, I was promoted to a Chemist II. In 2009, I
6 transferred into the trace unit as a Chemist II, which
7 is the equivalent of a forensic scientist II currently.
8 And, in 2017, I was promoted to a Forensic Scientist
9 III in the trace arson and explosives unit.

10 Q And, if you could, describe for the jury the
11 sort of difference between a forensic scientist or a
12 Chemist I, Forensic Scientist II, Forensic Scientist
13 III within your lab?

14 A Sure. So a Forensic Scientist II is
15 considered like a bench analyst, working on casework.

16 THE COURT: Ms. Hanley, I'm going to ask you
17 to keep your voice up really loud. Okay?

18 THE WITNESS: A Forensic Scientist III is a
19 unit supervisor, and I also perform casework.

20 BY MR. LALLY:

21 Q And how long is it you've been a Forensic
22 Scientist III or a supervisor within the trace unit?

23 A I have been a supervisor since 2017. So
24 approximately seven years.

25 THE COURT REPORTER: Keep your voice up,

1 please, ma'am.

2 THE WITNESS: Okay.

3 BY MR. LALLY:

4 Q Now, Ms. Hanley, with reference to just
5 starting in general terms with the trace unit, if you
6 could describe to the jury what is the trace unit and
7 what type of analyses are done within that unit?

8 A Sure. So the type of examination that we do
9 in the trace arson and explosives unit, I examine and
10 compare trace evidence such as paint, fibers, hair,
11 glass, tape, miscellaneous items. And I also do
12 physical match examinations as well as serial number
13 restorations on firearms.

14 Q And what type of training did you receive at
15 the lab?

16 A So I received in-house training as well as
17 some external training. The in-house training
18 consisted of required readings, exercises, observing
19 other analysts working on casework in the lab. I was
20 required to successfully complete a written exam, a
21 competency test and a mock trial.

22 Q And, if you could, describe to the jurors sort
23 of what your duties and responsibilities are with your
24 current position at the lab.

25 A Sure. So I'm responsible for the daily

1 operations in the unit, training other new analysts in
2 the unit. I perform technical and administrative
3 reviews of case files. I also work on casework, like I
4 had mentioned, in examining trace evidence such as
5 paint, fibers, hairs, glass, tape, miscellaneous items
6 and physical match examinations and serial number
7 restorations on firearms.

8 Q Now, your lab, the Massachusetts State Police
9 Crime Lab, is that accredited somehow?

10 A Yes, it is.

11 Q And can you describe to the jury what that
12 accreditation means essentially?

13 A Sure. So an accreditation, it's a formal
14 recognition that the lab is in compliance with certain
15 accreditation requirements.

16 Q And is the lab that you work for, is that
17 currently up to code or up to speed with regard to
18 accreditation?

19 A Yes.

20 Q Now, as far as you mentioned that you work as
21 a supervisor and review other people's casework; is
22 that correct?

23 A Yes. That's correct.

24 Q Now, when it comes to this specific area as
25 far as trace analysis or comparison of items, who, if

1 anyone, reviews your work?

2 A I'm sorry. I didn't hear the end of that.

3 Q Sure. When it comes to this type of analysis
4 as far as comparison of items, who is it that reviews
5 your work?

6 A So depending on the type of case, currently,
7 we do have an external technical reviewer who is
8 authorized to perform that technical review.

9 Q And is that external review, is that
10 essentially as a result of there is no one else at the
11 lab that can do what you do?

12 A With some of the disciplines that I perform
13 casework in, I am the only one. So when I do those
14 types of cases, we utilize an external technical
15 reviewer.

16 Q Now, are you familiar with a proficiency test?

17 A Yes.

18 Q And can you explain to the jury what that is
19 and how that plays into either your work at the lab or
20 the accreditation process that the lab goes through?

21 A So a proficiency test monitors an analyst's
22 performance. It's a quality assurance process. And I
23 am required to complete at least one external PT
24 annually due to the multiple sub-disciplines in trace.
25 I do typically perform or complete more than one

1 proficiency test per year.

2 Q And are the proficiency tests that you take,
3 are they required by the accrediting body ANAB?

4 A Yes.

5 Q Have you passed each of those proficiency
6 tests that you've undertaken over the years?

7 A I have successfully completed my proficiency
8 tests.

9 Q Now, turning your attention to this case, at
10 some point did you become involved in an analysis in
11 reference to a lab Case No. 22-02184?

12 A Yes.

13 Q And the name of the suspect on that is a
14 Karen Read; is that correct?

15 A Correct.

16 Q And if you could describe to the jury again
17 just in a general sense in any sort of case, when items
18 come into your possession at the lab, how is that done
19 and sort of what do you do with those items when you
20 first receive them?

21 A Sure. So evidence is submitted to the lab
22 through the evidence unit. It is assigned a unique lab
23 number and bar code. The information for the case is
24 input into our LIMS system, which stands for laboratory
25 information management system. And the chain of

1 custody of the items is tracked in that LIMS system.

2 When I take an item into my custody, I then
3 document it with photos and notes, and then I proceed
4 with sampling and microscopic examination and
5 instrumental analysis.

6 Q Now, specifically when it comes to over the --
7 you mentioned you have a variety of sort of sub-
8 disciplines or different types or testing or casework
9 that you do; is that correct?

10 A Yes.

11 Q Specifically as it applies to an analysis or
12 an examination of items of glass, what, if any,
13 experience or what types of cases would it be that
14 you've looked at those types of items in the past?

15 A So I have examined glass numerous times from a
16 variety of different types of cases; for example, a hit
17 and run or a B&E.

18 Q And, as far as the types -- are there
19 different types of glass that you've performed
20 examinations on in the past, as well?

21 A Yes. I mean, there could be a variety of
22 types of glass that I could come across for
23 examination.

24 Q And, with respect to examination of glass,
25 what are some of the steps or what is the process or

1 what, if any, instrumentality are you using to conduct
2 your examination?

3 A So when I examine an item that is glass, I
4 document it with photos and notes, making general
5 observations of appearance, color. I examine a portion
6 microscopically and observe certain optical properties.
7 And then I will also check to see if it fluoresces
8 under UV light. And I also will sample it for
9 analytical analysis using a GRIM, which stands for
10 glass refractive index measurement.

11 Q If you could explain to the jury the GRIM
12 device? How does that work?

13 A Sure. So it measures the refractive index.
14 Your sample is placed into an oil of a known refractive
15 index. And that then gets placed onto a hot stage of
16 the microscope of the GRIM instrument, and then it goes
17 through a process of cooling and heating, and it looks
18 for the match point temperature. And, from that match
19 point temperature, we are able to determine the
20 refractive index of the glass sample.

21 Q Now, as far as that determination of the
22 refractive index of a glass sample, how is that -- is
23 that something that you're viewing and how are you
24 viewing it and what are you viewing it on?

25 A It is viewed through the software that the

1 GRIM instrument uses.

2 Q And how does that appear as far as visually
3 when you're looking at it?

4 A So it essentially -- you watch the cooling and
5 heating process of this sample, like I had mentioned.
6 And it determines the match point temperatures. And it
7 takes an average, and it then calculates the refractive
8 index for the sample.

9 Q Now, is there another device that you utilize
10 in the lab called an FTIR?

11 A Yes.

12 Q Can you explain, first of all, what that term
13 stands for?

14 A Sure. It stands for Fourier transform
15 infrared spectrometer.

16 Q And what is that device and how is that used
17 in your examination?

18 A So it's an analytical technique that's used
19 for certain types of analysis. Basically, your sample
20 is exposed to infrared and light, and it reacts in a
21 certain way. And what's produced is what we call a
22 spectrum or a graph. And it's just a series of peaks
23 and valleys that are representative of the sample.

24 Q Now, turning your attention back to this case,
25 22-02184, starting with were there some glass pieces

1 that you examined in reference to that case?

2 A Yes.

3 Q And what were the item numbers associated with
4 the glass pieces that you examined in this case?

5 A Sure. So the item numbers were -- it was Item
6 3-2, 3-3, 7-12 and 7-14.

7 Q And, if you recall, as far as starting with
8 Item 3-2, was there any other sort of label associated
9 with that beyond just Item 3-2?

10 A 3-2 was a clear apparent drinking glass.

11 Q And Item 3-3?

12 A Item 3-3, I believe, was the clear apparent
13 glass pieces recovered from the bumper of the vehicle.

14 Q And then Item 7-12?

15 A That was some clear apparent glass that was
16 recovered from the ground.

17 Q And the ground at 34 Fairview Road; is that
18 correct?

19 A Yes.

20 Q And, lastly, Item 7-14?

21 A 7-14 was also a clear apparent piece of glass
22 that was recovered from the road.

23 Q Now, with reference to Item 3-2, the drinking
24 glass, what, if any, observations did you make or did
25 you note during the course of your examination of that?

1 A Sure. So it appeared to have broken,
2 irregular edges, and that was all that I noted at that
3 point.

4 Q Did you take measurements as far as height and
5 width?

6 A I did.

7 Q Do you recall what those were?

8 A I would need to refer to my notes.

9 MR. LALLY: Your Honor, with the Court's
10 permission?

11 THE COURT: Yes. You can use your notes.

12 THE WITNESS: So the diameter of the bottom of
13 the drinking glass was two and three-quarter
14 inches. I'm sorry. Approximately two and three-
15 quarter inches. And it measured approximately two
16 and a half inches in height.

17 BY MR. LALLY:

18 Q In addition to the measurements that you took,
19 what, if anything, else did you note as far as the
20 interior or the exterior of that glass cup?

21 A That there was some dirt, debris material
22 noted on the exterior and interior of that item.

23 Q Now, as far as Item 3-3, the apparent glass on
24 the rear bumper of the vehicle, what, if any,
25 observations or measurements did you take in reference

1 to that or how many pieces were there?

2 A Sure. So it consisted of five clear pieces of
3 apparent glass with all broken, irregular edges. The
4 largest piece measured approximately seven-eighths of
5 an inch by five-sixteenths of an inch. And the
6 smallest piece measured approximately three-sixteenths
7 of an inch by one-eighth of an inch.

8 Q Now, within those five pieces in Item 3-3,
9 were they then given, each of those pieces
10 respectively, an additional label or marker?

11 A Yes.

12 Q And was that an alphabetical one, essentially
13 "A" through "E"?

14 A Yes. I labeled them "A" through "E."

15 Q Now, with regard to Piece "E" from Item 3-3,
16 what, if anything, in addition did you do with regard
17 to that piece?

18 A So what I labeled as Piece "E" I also did -- I
19 also used the GRIM instrument for analytical
20 instrumentation.

21 Q Now, with regard to Item 7-12 or the 14 pieces
22 of glass and clear plastic, what, if anything, did you
23 observe in your initial observations or initial
24 examination of those pieces individually?

25 A So in Item 7-12, it consisted of five pieces

1 of clear apparent plastic and nine pieces of clear
2 apparent glass, all with broken, irregular edges.

3 Q Now, specific to the nine pieces of broken
4 glass, what, if any, examination did you do of them
5 initially?

6 A So the nine pieces of apparent glass were
7 examined microscopically.

8 Q Now, lastly, with regard to Item 7-14, the
9 pieces of glass recovered from 34 Fairview Road, what,
10 if anything, did you note during your initial
11 examination of them and observations did you make in
12 regard to them?

13 A Sure. So Item 7-14 consisted of one clear
14 piece of apparent glass with broken, irregular edges.

15 Q Now, as far as the microscopic appearance --
16 so when you're putting something under the microscope
17 and you're looking -- what kind of things are you
18 looking for? What kind of characteristics are you
19 looking for when you're examining something
20 microscopically?

21 A So I look at several things. So initially I
22 look at the color, whether there are like flat, smooth
23 surfaces to the glass, whether it's flat or curvature.
24 And then I may sample some more to examine under a
25 polarized light microscope and check to see if there

1 are certain optical properties under a polarized light
2 microscope that are characteristic of glass.

3 Q And, in addition to looking at each of these
4 items individually, then what, if any, comparison did
5 you do between those various items, 3-2, 3-3, 7-12 and
6 7-14?

7 A So between those items, I first examined them
8 to see if there was a physical match between Item 3-2
9 and Item 7-12 and 7-14. And then I also did a
10 comparison of 3-2 to Item 3-3. And then I also
11 compared Item 3-3 to 7-14 for a possible physical
12 match. And, in addition, I also sampled some pieces
13 for use, for examination on the GRIM instrument.

14 Q Let me ask you just as far as classification
15 goes, are you familiar with the terms as far as a class
16 characteristic versus an individual characteristic?

17 A Yes.

18 Q And can you explain what those terms mean and
19 how they relate to each other within your specific
20 forensic field?

21 A Sure. So a class characteristic is when a
22 material can be associated with a group of items that
23 share characteristics, for example, fibers or tape. An
24 individual characteristic is when a material can be
25 associated with a single source, for example, a

1 physical match.

2 Q Now, with reference to your analysis between
3 Items 3-2 and 7-12, what, if any, conclusions were you
4 able to draw from your examination or comparison of
5 those items?

6 A Sure. So there are several items that I'll
7 just have to refer to my conclusion if that's okay.

8 THE COURT: Yes. Go ahead and look at your
9 notes.

10 THE WITNESS: So Item 3-2 was found to have a
11 physical match with six of the pieces of clear
12 apparent glass from 7-12, but there is no physical
13 match with the three other pieces from 7-12.

14 BY MR. LALLY:

15 Q Then based on that physical match that you
16 determined, what, if any, conclusions can you come to
17 with regard to those items that were a physical match?

18 A Sure. So Item 3-2 and the six pieces from
19 7-12 were at one time together as one unit. And so
20 then Item 3-2 and all nine pieces from Item 7-12 were
21 examined microscopically. However, there was no
22 physical match found with the piece of clear glass from
23 7-14. Item 3-2 and all nine pieces of clear apparent
24 glass from 7-12 were examined microscopically, but no
25 physical match was found with two of the pieces from

1 the clear apparent glass from Item 3-3.

2 Q Now, with reference to Item 3-3 and Item 7-14,
3 what, if any, comparison examination were you able to
4 do in reference to that?

5 A Sure. So Item 3 -- so two of the clear glass
6 pieces from 3-3 were examined microscopically. No
7 physical match was found with the piece of clear glass
8 from Item 7-14.

9 One of the pieces that I had labeled as Piece
10 "E" from Item 3-3 was found to be consistent in
11 physical and instrumental properties with examined
12 portions of the piece of clear glass from Item 7-14.
13 Accordingly, the examined portion of the piece of clear
14 glass that I labeled as "E" from Item 3-3 could have
15 originated from the examined portion of the piece of
16 clear glass from Item 7-14 or from another source with
17 the same characteristics.

18 Q Now, Ms. Hanley, you used a term in there as
19 far as "instrumental properties." Can you explain to
20 the jury what that term means and how it relates to
21 your examination in this case?

22 A So the instrumental properties, that's
23 referring to the GRIM analysis that I did. So in
24 comparing the refractive index from 3-3 versus 7-14.

25 Q So the clear apparent glass from Item 3-2 that

1 was recovered from the scene was a physical match for
2 six pieces from 7-12 which were additional glass pieces
3 found from the scene, correct?

4 A I'm sorry. Say that again?

5 Q Sure. So the glass, the drinking glass, from
6 Item 3-2 was a physical match for six of the pieces
7 from Item 7-12, which was glass recovered from the
8 scene, correct?

9 A Correct.

10 Q And then two of the pieces from Item 3-3 or
11 one of the pieces, excuse me, Piece "E" from 3-3, which
12 was from the bumper of the defendant's vehicle, was
13 consistent with a piece of clear glass from 7-14, which
14 was found on the ground, correct?

15 A Correct.

16 Q Now, Ms. Hanley, in addition to that trace
17 analysis that you performed with regard to the glass
18 pieces, what, if any, other additional examination did
19 you do with regard to items of debris?

20 A Yes. I also examined Item 3-1 and 7-18.18.

21 Q Now, starting with Item 7-18.18, what, if any,
22 other description did you have as far as what that item
23 was or where it came from?

24 A 7-18.18 is scrapings, trace material recovered
25 from the victim's clothing.

1 Q And that would be both an orange tee shirt and
2 a gray long-sleeve shirt; is that correct?

3 A Correct.

4 Q And those particular items as far as the
5 debris, that was provided to your unit within the lab
6 by who?

7 A I believe it was Maureen that did the scraping
8 of the clothing and had those scrapings transferred to
9 our unit for further examination.

10 Q And that would be Maureen Hartnett; is that
11 correct?

12 A Yes.

13 Q And then as far as what, if any, items did --
14 the other item was 3-1; is that correct?

15 A Correct.

16 Q And that was the actual sort of taillight
17 housing from the vehicle; is that correct?

18 A Yes. That's correct.

19 Q And, according to your notes, who, if anyone,
20 provided that piece of evidence to your unit or to your
21 lab for that comparison purpose?

22 A I would have to double check. I believe it
23 was Maureen, but I would have to double check in my --

24 THE COURT: Go ahead.

25 THE WITNESS: Okay. I'm sorry. It was

1 Trooper Christopher Moore that had that item
2 delivered to the lab.

3 BY MR. LALLY:

4 Q Now, with reference to Item 3-1, the passenger
5 side taillight from the vehicle, what, if any,
6 observations or things did you note in regard to sort
7 of your initial examination of the taillight?

8 A I did notice that there were portions of the
9 taillight, portions that were clear and red that had
10 broken, irregular edges. It appeared to me that there
11 was damage to it.

12 Q Now, with reference to your examination just
13 of the taillight now, what, if any, instruments did you
14 utilize in the course of your examination of the
15 taillight?

16 A Sure. So during my examination, I used a
17 stereo zoom microscope, a polarized light microscope, a
18 comparison microscope as well as a FTIR with a
19 microscope attachment and a micro spectrophotometer,
20 also known as a micro spec.

21 Q Now, the GRIM and the FTIR I believe you've
22 already discussed in your testimony. As far as the
23 micro spec is concerned, can you explain to the jury
24 sort of what that instrument is and how it is used and
25 how you used it in this examination specifically?

1 A Sure. So a micro spec is used to examine
2 items that have color. So essentially your sample is
3 exposed to visible light. It reacts in a certain way.
4 Some of the light gets absorbed. Some of it gets
5 transmitted, and we get a spectrum. And it's
6 representative of the dye or pigment in the sample.

7 Q Now, with reference to Item 7-18.18, that
8 being the debris from the victim's clothing, what, if
9 any, observations or measurements did you take in
10 reference to that particular item?

11 A Sure. So I noted that there was some clear
12 plastic material as well as some red plastic material.
13 I would have to refer to my report for exact
14 measurements of those items.

15 THE COURT: You can go ahead and do that.

16 MR. LALLY: Thank you, Your Honor.

17 THE WITNESS: So the piece of clear plastic
18 measured approximately one-eighth of an inch by
19 one-sixteenth of an inch. And the largest piece of
20 one of the red plastic pieces measured
21 approximately one-sixteenth of an inch by less than
22 one-sixteenth of an inch. And the smallest piece
23 from that measured approximately less than one-
24 sixteenth of an inch by less than one-sixteenth of
25 an inch.

1 BY MR. LALLY:

2 Q As far as measurements go as far as your
3 examination as far as the lab is concerned, is one-
4 sixteenth of an inch sort of the bottom row as far as
5 measurements go?

6 A Yes.

7 Q So if something is less than that, it's just
8 sort of noted as less than one-sixteenth of an inch; is
9 that correct?

10 A Yes.

11 Q And, with regard to that debris, the clear and
12 red plastic from the debris, what, if any, examination
13 or what, if any, instruments did you use to conduct
14 your examination just of those pieces?

15 A So I examined a portion of the clear
16 plastic as well as one of the pieces of the red
17 plastic. I examined them microscopically, and I
18 analyzed portions instrumentally, using an FTIR and
19 a micro spec.

20 Q And, based on those examinations starting with
21 the clear plastic material that you observed, what, if
22 any, conclusions did you come to with reference to
23 comparison of the clear plastic material to the
24 taillight housing?

25 A The clear plastic from Item 7-18.18 was found

1 to be consistent in color and instrumental properties
2 with the examined portion of the clear plastic from the
3 taillight. So accordingly, the clear plastic from
4 7-18.18 could have originated from the clear plastic
5 from Item 3-1, the taillight or from another source
6 with the same characteristics.

7 Q Now, similarly, from your examination of
8 the red pieces of plastic in the taillight versus
9 the red pieces of plastic contained within the debris,
10 what, if any, conclusion were you able to come to
11 from your examination of the comparison of those
12 items?

13 A So the red -- the examined portions of the
14 plastic from Item 7-18.18 was found to be consistent in
15 color, microscopic appearance, instrumental properties
16 with the examined portions of the red plastic from the
17 taillight, Item 3-1. So accordingly, the red plastic
18 from 7-18.18 could have originated from the red plastic
19 from Item 3-1, the taillight, or from another source
20 with the same characteristics.

21 Q Thank you.

22 MR. LALLY: May I have one moment, Your Honor?

23 THE COURT: Yes.

24 MR. LALLY: Thank you very much, ma'am. I
25 have no further questions.

1 THE COURT: Okay. Actually, Mr. Jackson,
2 before you begin, I'd like to see you both.
3 (Whereupon, there was a sidebar conference as
4 follows:)

5 THE COURT: So I am glad I had the opportunity
6 to look at this before the break and I'm still
7 where I am at with this as argument. So I'll let
8 you put on the pictures of 3-2, 3-3, 7-12 and 7-14
9 and ask those questions about where things are
10 found. Anything under that is not permitted.

11 MR. JACKSON: Can I show her so she can go
12 back to tracking of this because --

13 THE COURT: Ask her if it will help her.

14 MR. JACKSON: Okay. Sure. At this point, my
15 intention is to simply ask her if it tracks with
16 her testimony a few minutes ago, which, as the
17 Court can tell, it's extraordinarily complicated
18 when you talk about all the numbers.

19 THE COURT: I don't think it is. I think
20 that's much more simply --

21 MR. JACKSON: Because you have this.

22 THE COURT: No, no. I didn't look at this
23 when I just did that.

24 MR. JACKSON: Okay.

25 THE COURT: So let's try it without. Okay?

1 MR. JACKSON: Sure.

2 THE COURT: Okay? Thank you. And this has
3 been marked for identification, and your rights are
4 saved on this.

5 MR. JACKSON: And I may use that with this
6 witness?

7 THE COURT: If it will help her.

8 MR. JACKSON: Okay. I'll ask her.

9 THE COURT: Okay.

10 MR. JACKSON: Thank you.

11 (Whereupon, the sidebar conference concluded.)

12 MR. JACKSON: Your Honor, may I approach the
13 clerk magistrate for just a moment to get "VV" for
14 Identification? Victor Victor.

15 THE COURT: You may.

16 MR. JACKSON: May I inquire?

17 THE COURT: Yes.

18 MR. JACKSON: Thank you.

19 CROSS-EXAMINATION

20 BY MR. JACKSON:

21 Q Good morning or good afternoon, well almost
22 afternoon, Ms. Hanley.

23 A Good morning.

24 Q I'd like to show you a document just to begin
25 our conversation this morning, if I may.

1 MR. JACKSON: May I approach?

2 THE COURT: Yes.

3 BY MR. JACKSON:

4 Q This has been previously identified as "VV" as
5 in Victor Victor. And I'd like to ask you, first of
6 all, to take a look at that and tell me if you
7 generally recognize what that document is?

8 A Yes. It appears to be a chain of custody of
9 several items.

10 Q Okay. And is that a chain of custody document
11 reflective of the crime lab's case number in this case?
12 That's sort of a clumsy question. Do you understand
13 what my question is?

14 A It is the chain of custody for 22-02184.

15 Q And is that the case number the Massachusetts
16 State Crime Lab, Massachusetts State Police Crime Lab,
17 assigned to this case that you're testifying about
18 today?

19 A Yes. That's correct.

20 Q Okay. And you've seen reports like this
21 before, correct?

22 A Yes.

23 Q They are routinely used in the crime lab to
24 track evidence and maintain of chain of custody at
25 least at the crime lab; is that right?

1 A That's correct.

2 Q And the information contained in the report is
3 entered at or near the time of the event that's
4 memorialized?

5 A Yes.

6 Q Okay. And it is relied on generally by the
7 crime lab as a business record, correct, as a record of
8 the events memorialized?

9 A Yes. It's a record of the chain of custody of
10 items within the lab.

11 Q Okay. And my question is, is it relied on by
12 the lab for truth and accuracy, as best you can
13 maintain it, to track items of evidence within the lab?

14 A Yes. It does track items.

15 Q And the information contained in the report is
16 presumed by you and other supervisors at the lab to be
17 accurate; is that right?

18 A Yes.

19 MR. JACKSON: Your Honor, I would move for the
20 admission of "VV" as an exhibit.

21 MR. LALLY: Objection.

22 THE COURT: I will see that and we'll see you
23 at the sidebar.

24 (Whereupon, there was a sidebar conference as
25 follows:)

1 THE COURT: Your objection, Mr. Lally?

2 MR. LALLY: Hearsay and it's a report, is what
3 it is.

4 MR. JACKSON: It falls under the business
5 record exception.

6 THE COURT: I don't see this as a business
7 record.

8 MR. JACKSON: If it's been maintained in the
9 regular course of business, the items are
10 established at or near the time of the event in
11 question. They are relied on routinely by the lab
12 and maintain their accuracy. How is that not a
13 business record?

14 THE COURT: I'm not letting this in. What
15 I'll do is let me think about it. Okay?

16 MR. JACKSON: Sure.

17 THE COURT: I may change my ruling. I haven't
18 even had a chance to even take a look at this.

19 MR. JACKSON: That's fine. I don't
20 necessarily need it right now. I'm not going to
21 show it.

22 THE COURT: You cannot show it.

23 MR. JACKSON: I wasn't planning on it.

24 THE COURT: Okay.

25 MR. JACKSON: Can I give this back to the

1 clerk magistrate?

2 THE COURT: Yes. And I want him to take the
3 Post-Its off. Okay?

4 MR. JACKSON: Yes.

5 (Whereupon, the sidebar conference concluded.)

6 MR. JACKSON: I'm sorry, Your Honor. My
7 request at sidebar is reserved?

8 THE COURT: Yes.

9 MR. JACKSON: May I inquire?

10 THE COURT: Yes.

11 BY MR. JACKSON:

12 Q Ms. Hanley, I want to draw your attention
13 specifically to the glass pieces that Mr. Lally asked
14 you about. Would you agree that -- there's a lot of
15 numbers that were discussed, correct, meaning I
16 compared 3-2 to 7-12 and Sub "A," "B," "C," and "D" of
17 7-12 were compared with 3-2 and 3-3. A lot of numbers?

18 A Yes. There were a lot of numbers, items.

19 Q I want to try if I can -- we'll see how well
20 it goes -- to clear that up and categorize those.
21 Perhaps would you agree that we could put the items
22 that you compared and examined in your analysis in four
23 categories, 3-2, the cup or the glass; 3-3, the bumper
24 glass; 7-12, the nine pieces of glass recovered by a
25 trooper named Bukhenik at the scene; and 7-14, a single

1 piece of glass recovered by a trooper named Proctor at
2 the scene.

3 Would you agree that those four categories are
4 basically what you analyzed between and among each
5 other?

6 A Yes. There's four total items.

7 Q Okay. And within those items there were some
8 subcategories of items in some of those, correct?

9 A Yes, because some of the items had multiple
10 pieces. So they were labeled just to keep track of the
11 pieces.

12 Q Okay. So if I could ask you to take those one
13 at a time, 3-2, under that column visually, that would
14 be a single item, just the cup, correct?

15 A Correct.

16 Q 3-3. Under that single item, the bumper,
17 there would be five sub-items, "A," "B," "C," "D" and
18 "E"?

19 A Yes. That's correct.

20 Q Public school education.

21 Under 7-12, the third column, there's nine
22 pieces, correct, "A," "B," "C," "D," "E," "F," as in
23 Frank; "I," "K" and "L" are the nine glass pieces,
24 correct?

25 A Correct.

1 Q So they are close to being alphabetical; not
2 quite toward the end, right?

3 A I would have to look at my report for the
4 exact letters. But --

5 THE COURT: Sure. Go ahead.

6 THE WITNESS: So the nine pieces of clear
7 apparent glass were labeled as "A," "B," "C," "D,"
8 "E," "F," "I" "K" and "L."

9 BY MR. JACKSON:

10 Q Okay. And then, of course, the last category
11 would be 7-14. That's a single piece of glass that was
12 recovered at the scene by Trooper Proctor, correct?

13 A Correct.

14 MR. LALLY: Objection, Your Honor, just --

15 THE COURT: So I'm going to see counsel at
16 sidebar for just a moment.

17 (Whereupon, there was a sidebar conference as
18 follows:

19 THE COURT: So rather than sustain every
20 objection because one portion of your statement is
21 objectionable, I'd rather move this along. So
22 recovered at the scene by Trooper Proctor --
23 hearsay part of it. So I can sustain every
24 objection that he makes regarding the chart with
25 Proctor glass retrieved by Proctor and we can be

1 here all morning.

2 MR. JACKSON: I'll cut it out.

3 THE COURT: Okay. You know what's
4 objectionable and what's not, and I understand
5 you're trying to put things in. If there is an
6 objection to every question, I'll sustain it.

7 MR. JACKSON: Understood.

8 THE COURT: Just like if there is an objection
9 to every leading question, I'll sustain it.

10 MR. JACKSON: Understood. Okay. Thank you.

11 (Whereupon, the sidebar conference concluded.)

12 MR. JACKSON: May I, Your Honor?

13 THE COURT: Yes.

14 BY MR. JACKSON:

15 Q All right. So the last category we were
16 talking about, 7-14, that was a single piece of glass,
17 correct?

18 A That's correct.

19 Q Okay. First of all, I'm going to ask you to
20 take your comparisons one at a time, if I can. You
21 compared the cup in 3-2 to the nine pieces recovered at
22 the scene, "A," "B," "C," "D," "E," "F" "I," "K" and
23 "L"; correct?

24 THE COURT: Is that 7-12 we are talking about?

25 MR. JACKSON: That's 7-12, Your Honor. Thank

1 you.

2 THE WITNESS: I'm sorry. Say the letters
3 again? I just don't know if I heard all of them.

4 BY MR. JACKSON:

5 Q Sure. "A," "B," "C," "D," "E," "F," "I," "K,"
6 "L."

7 A Yes. That's correct.

8 Q Of those pieces that I just mentioned, the cup
9 was a match to "A," "B," "C," "D," "F" and "K,"
10 correct?

11 A Yes. That's correct.

12 Q Pieces "E" and "I" were compared to each other
13 and you matched them, correct?

14 A So I believe I -- I'd have to look further in
15 my notes, but I believe "E" and "I" were found to fit
16 together by --

17 Q Physical properties, meaning mechanical
18 properties?

19 A Yes, but I would have to check my notes. But
20 I believe it was the previous analyst that looked at
21 7-12 that found a physical match between "E" and "I."

22 Q But that wasn't you?

23 A Is it okay if I look at my notes?

24 THE COURT: Yes.

25 BY MR. JACKSON:

1 Q Sure. I don't want to get bogged down, but
2 yes, please.

3 A So Item 7-12 was previously examined by
4 another analyst in the trace unit. Specifically, "E"
5 and "I" I received when I opened this item for
6 examination, "E" and "I" were taped together because
7 they were found to have a physical match by the analyst
8 who previously examined the item.

9 Q Great. Importantly, "E," "I" and "L,"
10 however, were not found to match the cup in 3-2,
11 correct?

12 A That's correct.

13 Q All right. You also compared the cup in 3-2
14 to the five items recovered on the bumper in 3-3,
15 correct?

16 A I'm sorry. Say that again?

17 Q You also analyzed the cup in 3-2 against the
18 five items, "A," "B," "C," "D" and "E" in 3-3, the
19 bumper glass, correct?

20 A I did examine -- I compared Item 3-2 to two of
21 the pieces marked as "A" and "B" from Item 3-3.

22 Q And those were deemed not to match the cup,
23 correct?

24 A Correct.

25 Q And you did not analyze "C" and "D," correct?

1 I'm assuming that's because of size?

2 A So the rest of the items were not used for
3 physical match examination due to size and condition.

4 Q All right. So as you sit here, none of the
5 items on the bumper were deemed to match the cup,
6 correct?

7 A Correct.

8 Q All right. So you did end up analyzing one of
9 the items on the bumper, Item "E," as in echo. And you
10 analyzed that against the single piece of glass found
11 at the scene in 7-14, correct?

12 A Correct.

13 Q And you used both -- well, you used a variety,
14 it sounds like, of analyses, including microscopy, UV
15 light, the glass refractive index, the GRIM process,
16 correct?

17 A That's correct.

18 Q You also used the FTIR, the infrared
19 spectrometry?

20 A That's incorrect?

21 Q Okay. And you did not use FTIR in this
22 analysis?

23 A I did not.

24 Q Okay. But, in the analysis that you did use,
25 you found that there was a match between Item "E" on

1 the bumper and the single piece of glass in 7-14,
2 correct?

3 A They were found to be consistent. They were
4 found to be consistent in physical and instrumental
5 properties.

6 Q Okay. So importantly, you also compared the
7 single piece of glass in our sort of visual Column 4,
8 7-14, that single piece of glass, to the cup and found
9 that it didn't match, correct?

10 A Correct.

11 Q All right. So lastly, you tested the single
12 piece of glass found in the fourth column, 7-14,
13 against the nine pieces of glass found in 7-12, "A,"
14 "B," "C," "D," "E," "F," "I," "K" and "L," correct?

15 A I did compare item 7-14 to Item 3-2 and the
16 nine pieces in Item 7-12.

17 Q So another way to put that would be you
18 analyzed Column 4 against Column 3 now, correct?

19 A I examined them for a possible physical match.

20 Q And they did not match, correct?

21 A There was no physical match to Item 7-14.

22 Q Okay.

23 MR. JACKSON: Your Honor, may I approach
24 briefly?

25 THE COURT: Okay. Show Mr. Lally, please.

1 MR. JACKSON: Sure. May I approach the clerk
2 magistrate and ask if he's got "WW," by chance?

3 THE COURT: I do.

4 MR. JACKSON: May I borrow that from the
5 Court? Thank you.

6 BY MR. JACKSON:

7 Q I'd like you to take a look at that document.
8 Just glance it over for a second and let me know when
9 you've had an opportunity to study that.

10 A (Witness complies.)

11 Q Okay. You've taken a look at that single-page
12 document?

13 A Yes.

14 Q Does that appear to accurately reflect in sort
15 of a visual manner what you just testified to about
16 your analysis of each of these pieces, irrespective of
17 the text on the item, just the analysis of the items
18 specified in that document?

19 A I'm not quite sure what -- I've never seen
20 this before.

21 Q Understood.

22 A I'm not quite sure what --

23 THE COURT: I think you have to move along,
24 Mr. Jackson, for all the reasons we talked
25 about.

1 MR. JACKSON: I understand.

2 BY MR. JACKSON:

3 Q My question is a relatively simple one. Is
4 this a -- and, if you don't understand something on the
5 document, just say so.

6 Is this a visual representation, an accurate
7 visual representation, of what you've just testified to
8 in terms of what matched and what didn't match with the
9 green matches, the circle with the red through it,
10 doesn't match, or no?

11 A I would need to go through my conclusion and
12 compare to confirm.

13 Q Okay. Fair enough. It is accurate to say --
14 let me use the cheat sheet for a second. It is
15 accurate to say that the cup was not found to match any
16 items that were found on the bumper. That's correct,
17 correct?

18 A That is correct.

19 Q Okay. Also, it's fair to say that the piece
20 recovered under 7-14, the single piece of glass
21 recovered under 7-14, does not match either the cup nor
22 does that piece match any of the nine pieces in 7-12,
23 correct?

24 THE COURT: You can look at your notes if
25 that's easier for you.

1 You just want the right answer, Mr. Jackson,
2 right?

3 MR. JACKSON: Of course. That's all I want.

4 THE COURT: Take your time and look through
5 your notes if that's easier for you.

6 THE WITNESS: I'm sorry. Can you just repeat
7 the last question that you asked?

8 BY MR. JACKSON:

9 Q Of course. The single piece of glass under
10 7-14 neither matches the cup nor does it match any of
11 the nine pieces found in 7-12? In other words, it
12 stands alone?

13 A That's correct. So 7-14, there was no
14 physical match between 7-14 and 3-2 or any of the
15 pieces in 7-12.

16 Q Thank you for that.

17 And then my final question is the only piece
18 of material, glass material, that was recovered from
19 the bumper, Item "E," the only thing that any piece on
20 that bumper matched was the single piece of glass found
21 in 7-14, correct?

22 A So Piece "E" from Item 3-3 was the piece that
23 I examined microscopically and instrumentally. It was
24 found to be consistent in physical and instrumental
25 properties with 7-14.

1 Q And that's the only piece of material on that
2 bumper in that section, in other words, in 3-3, that
3 matched anything else in your analysis, the piece that
4 was found singularly under 7-14, correct? It's the
5 only match?

6 A Yes. It was found to be consistent.

7 MR. JACKSON: Thanks. That's all I have.

8 Thank you, Your Honor.

9 THE COURT: All right. Mr. Lally?

10 MR. LALLY: Just briefly, Your Honor.

11 REDIRECT EXAMINATION

12 BY MR. LALLY:

13 Q Now, Ms. Hanley, within Item 7-12, there were
14 nine pieces of glass and five pieces of plastic,
15 correct?

16 A Correct.

17 Q And, as far as the comparison analysis that
18 you're conducting is concerned, why is it, as far as
19 the pieces of plastic are concerned, why is that not
20 part of the comparative analysis?

21 A I didn't examine the plastic pieces for a
22 physical match because there were no other plastic
23 pieces for comparison for a physical match. I examined
24 the glass pieces for a possible physical match.

25 Q What are some of the differences from an

1 elemental standpoint as far as plastic versus glass?

2 A Well, plastic is a type of polymer. A
3 different type of analysis would be conducted if I was
4 examining plastic versus glass, something like a
5 plastic, something that we refer to as anisotropic.
6 Glass is isotropic. They are different types of
7 material.

8 Q Now, as far as characteristically speaking
9 from plastic and/or glass, what are some of the
10 commonalities of those items as they are found in
11 general?

12 MR. JACKSON: Objection.

13 THE COURT: Beyond the scope?

14 MR. JACKSON: Yes.

15 THE COURT: Sustained.

16 BY MR. LALLY:

17 Q Now, again, from the drinking glass that was
18 recovered on scene, that was a match for six of the
19 pieces of glass that were found on the roadway or on
20 the ground at 34 Fairview Road, correct?

21 A I believe it was six. I would just have to
22 confirm in my report.

23 THE COURT: Go ahead and refer to your report.

24 Yes. It was six pieces from 7-12.

25 BY MR. LALLY:

1 Q And then it was Piece "E" from Item 3-3 from
2 the bumper of the defendant's vehicle that was found to
3 be consistent with clear glass that was found on the
4 ground at 34 Fairview Road, correct?

5 A Yes. That's correct.

6 MR. LALLY: Nothing further.

7 MR. JACKSON: Nothing further, Your Honor.

8 THE COURT: All right. Thank you very much,
9 Ms. Hanley. You are all set.

10 THE WITNESS: Thank you.

11 (Whereupon, the witness is excused.)

12 THE COURT: Your next witness, Mr. Lally?

13 MR. LALLY: Your Honor, may we approach?

14 THE COURT: Yes.

15 (Whereupon, there is a sidebar conference as
16 follows:)

17 MR. LALLY: So, Your Honor, the next witness
18 is Sergeant Bukhenik. With reference to his
19 testimony or at least a portion of it, I have
20 provided to the Court some photographs that I
21 intended to use with this witness.

22 THE COURT: Are they autopsy photos?

23 MR. LALLY: So not the autopsy ones. The
24 autopsy ones I did also provide to the Court but
25 there was a separate set of photos from Good

1 Samaritan, and that's what I would be looking --
2 the autopsy ones I'm going to use with medical.

3 THE COURT: Yes. That's the only ones I think
4 I have.

5 MR. LALLY: There should have been two sets in
6 the envelope.

7 THE COURT: In the same envelope?

8 MR. LALLY: Yes.

9 THE COURT: They're probably on my desk. Do
10 you have a copy here? Jim, I don't know where
11 they are.

12 MR. LALLY: I don't have a copy here and I
13 don't need to address it until probably after the
14 lunch break.

15 THE COURT: Okay.

16 MR. LALLY: But I just want to flag it for the
17 Court because it is something that I would like to
18 introduce at least some of those photographs
19 through this witness.

20 THE COURT: Is there an objection?

21 MR. LALLY: No.

22 THE COURT: All right. I'll find it during
23 lunch.

24 MR. LALLY: Okay.

25 THE COURT: Is he here?

1 MR. LALLY: He is.

2 THE COURT: Okay.

3 MR. LALLY: Thank you.

4 (Whereupon, the sidebar conference concluded.)

5 MR. LALLY: Your Honor, the Commonwealth calls
6 Sergeant Yuriy Bukhenik to the stand.

7 Whereupon,

8 YURIY BUKHENIK

9 having been first duly sworn, was examined and
10 testified under oath as follows:

11 THE COURT: Whenever you are ready, Mr. Lally.

12 MR. LALLY: thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY MR. LALLY:

15 Q Good afternoon, sir.

16 A Good afternoon.

17 Q Would you please state your name and spell
18 your last name for the jury?

19 A Yes, sir. My name is Yuriy, Y-U-R-I-Y, last
20 name Bukhenik, B-U-K-H-E-N-I-K.

21 Q And how are you employed, sir?

22 A I'm employed by the Massachusetts State
23 Police.

24 Q And how long have you been a trooper with the
25 state police?

1 A I've been a trooper since 2012.

2 Q And prior to being employed as a trooper with
3 the state police, what, if any, other employment or
4 background do you have as far as law enforcement is
5 concerned?

6 A My law enforcement career began in 2003 when I
7 graduated from the military police school at Fort
8 Leonard Wood, Missouri while I was enlisted in the
9 United States Marine Corps. From there, I was
10 stationed at Quantico, Virginia with the Marine Corps
11 Residential Helicopter Squadron. I provided security
12 for the presidential helicopter and assets, obtaining a
13 top secret Yankee White clearance. I was promoted
14 meritoriously to corporal and sergeant and had a
15 platoon of 44 Marines.

16 From there, I was stationed in Camp Pendleton,
17 California, where I was a patrol supervisor on base as
18 a military police officer.

19 Once my enlistment ended, I decided to come
20 home and pursue a law enforcement career here in
21 Massachusetts in the communities that I grew up in.

22 I first worked with the V.A. Hospital Police
23 before I obtained a secret clearance, which was a
24 requirement of the employment. After that, I worked at
25 the Attleboro Police Department in uniform patrol as

1 well as the S.W.A.T. with the Attleboro, Massachusetts
2 Police Department.

3 In 2011, I applied for the Massachusetts State
4 Police, graduated and worked at the Sturbridge
5 barracks, Millbury barracks and Foxboro barracks. In
6 2015, I was selected to come to the Norfolk District
7 Attorney's Office with the detective unit and worked
8 homicide cases as a trooper.

9 In 2021, December, I was promoted and took on
10 a supervisory role within the unit.

11 Q Now, with respect to your work within the unit
12 of the detective unit of the Norfolk District
13 Attorney's Office, what, if any, specialized training
14 did you receive in regard to your work there?

15 A I've attended numerous homicide conferences,
16 training in various aspects of digital device analysis
17 and investigations in major crimes, homicides, drug
18 investigations and so forth.

19 Q Now, were you working in that capacity with
20 the state police detective unit on January 29th, 2022?

21 A I was.

22 Q And were you on call that day?

23 A I was on call as a supervisor.

24 Q Now, can you explain to the jury as far as the
25 on-call system within the detective unit -- well, let

1 me ask you this first: What, if any, duties and
2 responsibilities do you have as a sergeant or as a
3 supervisor with reference to on-call duty and sort of
4 how that works?

5 A As a supervisor on call, responsibilities
6 include answering the detective that's on call, any
7 questions that might arise. Obviously, we don't all
8 have the same experience. So we put our heads together
9 and if it's a situation or a case scene that they have
10 not been exposed to before, they call the supervisor
11 for guidance, suggestions or bounce questions off of
12 him in order to help them navigate that case.

13 Q And who was the on-call detective on this
14 particular date of January 29th?

15 A January 29th, the morning hours up until 7:00
16 a.m., it was Trooper Michael Proctor.

17 Q And do you know Trooper Proctor?

18 A I do.

19 Q And how long have you known Trooper Proctor?

20 A Since he came into the office in 2019, I
21 believe. It was September or October of 2019.

22 Q And have you supervised Trooper Proctor sort
23 of throughout his work within the office?

24 A I have supervised him throughout my
25 supervisory position. So his entire time in the office

1 while I was a supervisor, I supervised him directly.

2 Yes.

3 Q And, as far as that on-call system or that on-
4 call rotation is concerned, how was that determined or
5 how does that sort of come into existence?

6 A The on-call system is formulated. It's
7 compiled the month prior. So for example, if it was
8 December, the beginning of December, the troopers in
9 the office would submit their days requesting not to be
10 on call due to trials, training, personal reasons or
11 vacations that they had planned.

12 Those days are submitted in the beginning of
13 the month and then if it's in the beginning of
14 December, for example, the on-call schedule for January
15 is then compiled a month in advance, really.

16 Q So these were generated well in advance of
17 whatever specific day a trooper is on call, correct?

18 A That's correct.

19 Q And, as far as the detective unit within the
20 Norfolk County District Attorney's Office, who, if
21 anyone, is your supervisor?

22 A Currently, my supervisor is Lieutenant Fanning
23 and the Unit Commander is Detective Lieutenant Brian
24 Tully.

25 Q And that sort of pecking order, if you will,

1 was that the way it was set up in January of 2022, as
2 well?

3 A Yes, it was.

4 Q Now, on this morning of January 29th, 2022, at
5 some point do you get a call in the morning, and from
6 whom do you initially get a call?

7 A I received a call approximately 6:44 in the
8 morning or so from the H Troop Headquarters, which is
9 the field headquarters for the metro Boston area, which
10 also covers our county. And they advised me that there
11 was a body in a snowbank in Canton. I asked for the
12 details and advised them that I was not on call but
13 that I would call the on-call trooper and let them know
14 that there was a call-out requesting their assistance.
15 So that's what I did. I called Trooper Proctor and
16 advised him to contact Canton Police.

17 Q And following that initial contact that
18 you had from the H Troop and then your call to
19 Trooper Proctor, what happened then?

20 A Trooper Proctor began making phone calls,
21 gathering information.

22 MR. JACKSON: Objection.

23 THE COURT: Sustained. Next question.

24 BY MR. LALLY:

25 Q What was the next thing that happened as far

1 as your involvement was concerned, sir?

2 A I was advised of the circumstances under which
3 the body was located and what was transpiring. And I
4 told Trooper Proctor that I would start shoveling out
5 during the blizzard and then proceed to meet him in
6 Canton to begin our investigation.

7 Q And where was it that you and Trooper Proctor
8 first met up on that particular morning?

9 A We met at the Canton Police Department.

10 Q And do you recall approximately what time it
11 was that you arrived at the Canton Police Department?

12 A It was approximately 9:15. Due to the amount
13 of snow that was on the ground, the time that it took
14 me to shovel out, the main roads -- actually, no roads
15 were plowed at the time during my track. So I decided
16 to drive my personal truck to the Canton Police
17 Department because it was a four-wheel drive and meet
18 Trooper Proctor there.

19 Q Now, as far as your personal truck versus you
20 have a work vehicle as well?

21 A That's correct.

22 Q And you mentioned that the truck is four-wheel
23 drive. What is the difference between your personal
24 truck and its capabilities in weather versus the work
25 vehicle?

1 A Well, at the time, there was approximately 10,
2 15 inches of snow that had accumulated already. My
3 work vehicle is a sedan, low to the ground, low
4 clearance, front-wheel drive. It wouldn't be able to
5 navigate the road conditions at the time. My four-
6 wheel drive vehicle is higher clearance from the
7 roadway and was able to navigate the conditions at the
8 time.

9 Q And, sir, when you arrived -- so at
10 approximately 8:22 in the morning or so, where is it
11 that you were at that point in time if you know?

12 A At 8:22, I would say I was still blowing the
13 snow out of my driveway, clearing the path for my truck
14 to leave.

15 Q And, when you arrive at the Canton Police
16 Station, you mentioned that you met Trooper Proctor
17 there. Do you recall who arrived first?

18 A Trooper Proctor was in the parking lot in his
19 vehicle. And I pulled in, backed next to his, and we
20 walked in together into the police department, I
21 believe.

22 Q And, when you walked into the Canton Police
23 Station on that morning sometime after 9:00 a.m., where
24 is it that you went? Who, if anyone, did you talk to
25 when you first got there?

1 A We walked into the police department. We were
2 guided to the detective department or division of the
3 P.D., and we met with the detectives from Canton and
4 Sergeant Goode, who was the uniform patrol sergeant and
5 having been the first responder to the scene, as well.

6 Q Now, without reference to anything that was
7 communicated between the two of you, at some point
8 prior to getting to the Canton Police Station, did you
9 have conversations with Trooper Proctor?

10 A Yes, I did.

11 Q And did Trooper Proctor make you aware of
12 conversations that he had had with other people prior
13 to getting to the Canton Police Station?

14 MR. JACKSON: Objection.

15 THE COURT: I'll allow that. It's a yes-or-no
16 question.

17 THE WITNESS: Yes.

18 BY MR. LALLY:

19 Q And so you get to the Canton Police Station.
20 You and Trooper Proctor then proceed to talk to
21 Sergeant Goode; is that correct?

22 A That's correct.

23 Q And, again, without any reference to what was
24 said to you by Sergeant Goode, did he relate some
25 information to you, as well?

1 A That's correct.

2 MR. JACKSON: Objection.

3 THE COURT: No. I'll allow it.

4 THE WITNESS: That's correct.

5 BY MR. LALLY:

6 Q And, if you know, about how long was the
7 period or the conversation that you had with
8 Sergeant Goode at the Canton Police Station?

9 A The conversation with Sergeant Goode was
10 probably 25 to 30 minutes. He walked up through his --

11 MR. JACKSON: Objection.

12 THE COURT: Next question, please. I'm going
13 to stop you from answering that, Sergeant.

14 THE WITNESS: Yes, Your Honor.

15 BY MR. LALLY:

16 Q Sergeant Bukhenik, with reference to -- at
17 some point, did you learn the name of the body or the
18 person that was found on the lawn on Fairview Road?

19 A Yes, I did.

20 Q And who did you learn him to be?

21 A Mr. John O'Keefe.

22 Q And, in reference to where Mr. O'Keefe's body
23 was at that time, what, if any, information did you
24 receive about that?

25 MR. JACKSON: Objection.

1 THE COURT: I'll allow it.

2 THE WITNESS: We learned that Mr. O'Keefe's
3 body was transported to the hospital, the Good
4 Samaritan Hospital in Brockton.

5 BY MR. LALLY:

6 Q And, in reference to the Good Samaritan
7 Hospital in Brockton, who, if anyone, else were you
8 told had been taken to that facility, as well, in
9 relation to your response that morning?

10 MR. JACKSON: Objection.

11 THE COURT: I'll allow that.

12 THE WITNESS: The defendant.

13 BY MR. LALLY:

14 Q And, just to be clear, at some point over the
15 course of your investigation, had you had or have you
16 had interactions with Karen Read?

17 A Yes, I have.

18 Q And, to be clear, when we say as far as
19 Karen Read, the defendant, do you see her in the
20 courtroom today?

21 A Yes, I do.

22 Q Could you identify just as to where she's
23 seated or an article of clothing that she's wearing?

24 A She's seated between her legal defense team,
25 wearing the white blouse.

1 MR. LALLY: Your Honor, I'd just ask the
2 record reflect the identification of the defendant
3 by the witness.

4 THE COURT: Yes.

5 BY MR. LALLY:

6 Q So upon having that conversation with
7 Sergeant Goode at the Canton Police Station, where is
8 it that you and Trooper Proctor went next?

9 A From the Canton Police Department, we
10 proceeded to the McCabe residence.

11 Q And that was over on (c); is that
12 correct?

13 A That's correct. No. (c)

14 Q And, when you arrive there, as far as
15 transportation to that, is it you and Trooper Proctor
16 in the same vehicle?

17 A Yes. I made the decision to drive us, that we
18 only take one vehicle. In addition to Trooper Proctor
19 being able to make phone calls and facilitate other
20 logistics as necessary allowed him that freedom to do
21 so while I operated the vehicle in the dangerous snow
22 conditions.

23 Q The snow conditions that you were talking
24 about as far as clearing out your driveway, the drive
25 to the Canton Police Station, did those conditions

1 persist throughout the day of the 29th?

2 A Yes, they did.

3 Q And so you make your way over to the McCabe
4 residence. Again, without anything that was said, who,
5 if anyone, did you speak with at the McCabe residence
6 that morning?

7 A We first spoke with Ms. Jennifer McCabe. We
8 then spoke to Mr. Matt McCabe. And then we spoke with
9 Mr. Brian Albert.

10 Q And, with reference to each of those
11 conversations, were they done collectively or
12 separately or how were those interviews conducted?

13 A Each interview was conducted separately. We
14 first interviewed Ms. Jennifer McCabe with request of
15 Mr. McCabe to give us privacy. He proceeded upstairs.
16 Once we were done with that interview, Mr. McCabe came
17 downstairs and Ms. McCabe gave us the same courtesy.
18 And, once that interview was over, Mr. Brian Albert had
19 arrived, and we interviewed him briefly.

20 Q And is that sort of the typical process of how
21 at least your unit conducts interviews with respect to
22 civilians?

23 A Yes. With cooperating civilians, we typically
24 advise them they were going to be scheduling an
25 interview. We proceed to their location of convenience

1 and separate them and get their version and
2 recollection of events that we are inquiring about.

3 Q Now, after you spoke with those three
4 individuals, yourself and Trooper Proctor at the McCabe
5 residence, where is it that you and Trooper Proctor
6 went next?

7 A We proceeded to the Good Samaritan Hospital in
8 Brockton.

9 Q And where within the Good Samaritan Hospital
10 did you go?

11 A We went to the emergency department.

12 Q And, within the emergency department, were you
13 led to a specific room?

14 A Yes, we were.

15 Q And what, if anything, did you observe when
16 you were in that room?

17 A Once in the room, we observed Mr. O'Keefe's
18 body on the medical bed or gurney. His clothing which
19 had been cut off of him were on the floor at the foot
20 of the bed, a couple of feet away at the foot of the
21 bed.

22 Q Now, first with regard to the clothing, what,
23 if anything, did you do with regard to that?

24 A After viewing Mr. O'Keefe's body, we proceeded
25 to identify the clothing items and bag them into

1 evidence bags, notating which item and a brief
2 description about each item of clothing.

3 Q So let me ask you just a little bit about that
4 as far as that process is concerned.

5 So when an item of evidence is collected by
6 you or by your unit during the course of an
7 investigation, is there sort of a policy or a protocol
8 or how are things -- what to do with things when you
9 collect them and take them into custody and evidence?

10 A If we deem an item to be of evidentiary value,
11 we identify the item. We take a brief description of
12 it, and we label the evidence bag with that
13 description. We notate who is taking the item into
14 custody, typically who located the item, the time that
15 it's located and the location from which it was seized
16 or taken or collected.

17 Q And, with regard to items of clothing, is that
18 something that would be placed in just one big bag of
19 clothes or like how would those be packaged in evidence
20 bags?

21 A Mr. O'Keefe's clothing which was already in
22 one big pile on the floor, we packaged all --

23 MR. JACKSON: Objection. May we approach
24 briefly?

25 THE COURT: Okay. Jurors, feel free to stand

1 up and stretch.

2 (Whereupon, there was a sidebar conference as
3 follows:)

4 MR. JACKSON: There is an ongoing objection to
5 the use of a pronoun "we," we did this, we did
6 that. That's exceptionally, I think the Court can
7 tell after several weeks of trial, is exceptionally
8 important that we know who did what. It's
9 inappropriate for him to say we did anything. He
10 needs to define who did what. I don't want to
11 continually object. So perhaps Mr. Lally can
12 instruct him to tell me what you did and what
13 Trooper Proctor did. Otherwise, I'm going to
14 object.

15 THE COURT: Well, you can do it on cross.

16 MR. JACKSON: Except all the information is
17 coming in muddled and vague. We put it in a bag.
18 "We" didn't put it in a bag. Somebody put it in a
19 bag.

20 THE COURT: All I got was we gathered. I
21 mean, we are all here, talking. You can then bring
22 up what you say and what I say.

23 MR. JACKSON: Right. But we are not holding
24 that pen. You are holding the pen. I mean, that
25 is my problem with that kind of testimony. It gets

1 very garbled and muddled and I have to correct it.
2 I have to protect the record. I don't want to have
3 to object to every single question if he uses the
4 pronoun "we." He needs to testify to what he did
5 or what he observed somebody else do. That's all.

6 THE COURT: What do you say?

7 MR. LALLY: I don't think the term "we" is
8 objectionable. So, I mean, counsel can object all
9 he wants, but I mean as far as -- you know, again,
10 I think the Court is correct in that these are
11 questions counsel can explore on cross as far as
12 his recollection as to what he specifically did
13 versus what someone else specifically did.

14 MR. JACKSON: Then I have to go over every
15 single question that he asks on direct? It's
16 extremely inefficient. It is an easy instruction
17 to give the witness: Please testify to what you did
18 and what you saw. It's super simple. That's all
19 I'm asking.

20 THE COURT: All right. I'm not sustaining
21 your objection. Mr. Lally, if you choose to say
22 who did what, fine. If you don't then you can do
23 what you want with it. And I understand where all
24 of this is going. Let's just get through the sort
25 of nonprejudicial stuff.

1 MR. JACKSON: Okay.

2 (Whereupon, the sidebar conference concluded.)

3 BY MR. LALLY:

4 Q Sergeant Bukhenik, when you come into the
5 hospital room where Mr. O'Keefe's body was, there's
6 clothing items that were on the floor; is that correct?

7 A That's correct.

8 Q And do you recall how those clothing items
9 were in relation to each other, in relation to the
10 floor?

11 A They were positioned on the floor in a pile
12 stacked on top of each other, and they were in the
13 condition of being soaking wet.

14 Q And, with respect to those clothing items, do
15 you recall what those clothing items were individually?

16 A Yes, sir.

17 Q And what were they?

18 A They were a plaid pair of boxer underwear. It
19 was an orange colored design print tee shirt. It was a
20 blue pair of Lucky Brand jeans; a belt; a two-tone
21 gray, light, thin hooded sweatshirt; and a right
22 sneaker, black in color, with white design, a Nike
23 brand. December 18, 2024

24 Q And how many sneakers were there contained
25 within that property?

1 A One, the right sneaker.

2 Q And what, if any, observations did you make of
3 the condition beyond them being soaking wet?

4 A I also recognized, due to the aroma and visual
5 observations, traces of vomit on the clothing.

6 Q And, with regard to those items that you
7 observed on the floor, what, if anything, did you
8 and/or Trooper Proctor do with reference to those
9 clothing items?

10 MR. JACKSON: Objection.

11 THE COURT: I'll allow him to answer.

12 THE WITNESS: Once we went through the
13 clothing, we collected each item and put it into a
14 large evidence bag. We double bagged it due to the
15 wetness of the clothing so it would not seep
16 through. We also identified the fact that there
17 was only one sneaker. So I requested that
18 Trooper Proctor contact the paramedics that
19 transported Mr. O'Keefe from 34 Fairview to the
20 hospital and have them once again check their
21 ambulance to see if there was another sneaker
22 inadvertently left behind in the ambulance vehicle.

23 BY MR. LALLY:

24 Q Now, prior to sort of physically touching this
25 or any other piece of evidence, what, if any, other

1 sort of precautions do you take prior to handling,
2 tactile handling of any piece of evidence?

3 A Anytime we handle evidence which obviously we
4 take great caution not to destroy, alter or discard any
5 evidence, we also put on gloves in order to help
6 preserve that item.

7 Q And, in reference to these items or items of
8 -- anything of evidentiary value that you seize as
9 evidence, once you take it and secure it into an
10 evidence bag, what happens to it from there?

11 A Once it's secure in the evidence bag, it is
12 sealed and logged into our evidence storage facility at
13 the office. And then, as necessary, it is signed off,
14 shipped off for processing, reviewed for court
15 proceedings.

16 Q And, as far as that sealing is concerned, how
17 are bags or boxes of items of evidentiary value, how
18 are they sealed?

19 A Once the bag is --

20 MR. JACKSON: Objection, Your Honor.

21 THE COURT: I'll allow it.

22 THE WITNESS: Once the bag is sealed, it is
23 utilized -- we utilize tape, typically red or
24 yellow tape. Once it's secure, we initial and date
25 the tape on the edge. That procedure helps

1 identify the time and date it was sealed and by who
2 with the initials.

3 BY MR. LALLY:

4 Q And then once that bag or box is sealed, if
5 that bag or box is subsequently opened at a later time,
6 what, if any, notation or what, if any, recordation of
7 that is made?

8 A Anytime a piece of evidence is signed out for
9 review, it's logged in the tracking system. In
10 addition, anytime a piece of evidence is opened, with
11 the container being a bag or a box is opened, and the
12 tape is cut, it is then resealed, reinitialed and dated
13 by the trooper or an individual who is signing that
14 evidence out and then returning it.

15 Q Now, as far as the evidence bag or box is
16 concerned, when it's been opened, is that something
17 that is noticeable based on the sealing and resealing
18 of that particular receptacle?

19 A Yes, sir. It is definitely noticeable and
20 it's noted in the system.

21 Q Now, with regard to you mentioned or made some
22 mention earlier in your testimony in regard to evidence
23 storage facilities at your office --

24 A Yes.

25 Q Can you describe what those are and who, if

1 anyone, has access to those evidence storage areas?

2 A Within our office we have two troopers that
3 are designated as evidence officers. Those individuals
4 have access to the secure rooms designated strictly for
5 evidence storage. Those rooms are inventoried and kept
6 under not just lock and key but also digital access
7 control and alarm systems. They are the only ones that
8 have access to those facilities in addition to our unit
9 commander. But I'll tell you that our unit commander
10 does not access that room without the evidence
11 officers. I, myself, even as a supervisor, do not have
12 access to that room.

13 Q So you don't have access to that evidence
14 room; is that correct?

15 A That's correct.

16 Q Does Trooper Proctor? Is he one of those
17 evidence officers? Did he have access to that room?

18 A He does not.

19 Q As far as at the time in January of 2022, who
20 were the troopers within your office who did have
21 access to that room?

22 A In January 2022, that would be Trooper
23 Jeff Kotkowski and Trooper David DiCicco.

24 Q And that would be in addition to Lieutenant
25 Tully; is that correct?

1 A Detective Lieutenant Tully I believe has
2 access to it, but I cannot speak to that. I just
3 believe that he does as a unit commander to facilitate
4 any next assignment.

5 Q Now, with reference to any items that you were
6 physically present for that were taken into custody or
7 were taken into evidence, including that clothing from
8 the hospital on January 29th and any other items
9 throughout the course of this investigation, when they
10 were taped and sealed, what were each of those -- what
11 happened with each of those items once they were taken
12 back to your office?

13 MR. JACKSON: Objection.

14 THE COURT: I'll allow it.

15 THE WITNESS: Each item that was sealed, it
16 was processed in. It was logged in. And then it
17 was stored after processing. It was stored in the
18 evidence room.

19 BY MR. LALLY:

20 Q Now, returning back to the Good Samaritan
21 Hospital, within that hospital room, you made mention
22 that you secured items and that you made observations
23 of Mr. O'Keefe; is that correct?

24 A That's correct.

25 Q And can you describe for the jury as far as

1 Mr. O'Keefe's body, what were those observations that
2 you made?

3 A Mr. O'Keefe's body was laying on his back.
4 The observations I made were of bruising to the eyelids
5 of his face. Based on my experience and having cases
6 with head trauma, I can tell you that during subdural
7 hematoma, the --

8 MR. JACKSON: Objection.

9 THE COURT: I'll sustain the objection. Build
10 a foundation if you can, Mr. Lally.

11 BY MR. LALLY:

12 Q Trooper, over the course of your work with
13 this unit in particular, if you know, about how many
14 homicide or -- let me step into it this way:

15 As far as your work within this unit as far as
16 it's concerned, what, if any, jurisdiction does the
17 state police detective unit of the district attorney's
18 office have with reference to not only homicide but
19 death investigations within Norfolk County?

20 A By statute, Chapter 38, Section 4, in each
21 county, the district attorney's office is provided
22 jurisdiction over all death investigations. As a
23 result, the law enforcement entities that are assigned
24 to that district attorney perform the investigations.
25 In Norfolk County, those individuals are members of the

1 Massachusetts State Police assigned to the state police
2 detective unit within our office.

3 Q And so as far as death investigations, what
4 exactly or what type of investigations would that
5 encompass?

6 A Death investigations that we have jurisdiction
7 over are all unattended deaths. Unattended deaths
8 means that a physician, a doctor, is not overseeing the
9 individual that passes. Those deaths would be
10 suicides, homicides, overdose-type deaths, natural
11 deaths, accidental deaths and so forth. Any type of
12 death that is not overseen by a doctor at a medical
13 facility or in a hospice-type situation.

14 Q So as a result of your assignment to this unit
15 and that sort of exclusivity of jurisdiction over
16 unattended deaths within Norfolk County, if you know,
17 approximately how many death investigations have you
18 been a part of over the course of your work with the
19 state police detective unit?

20 A Over the last nine years, I would venture to
21 say it was over 500 death investigations that I was a
22 part of.

23 Q And, Sergeant, over the course of your
24 involvement within those investigations, if you know,
25 how many of those investigations involved some

1 indication or some type of head trauma?

2 A Scores. Scores of investigations that involve
3 some sort of head trauma.

4 Q And, through the course of your investigations
5 in those cases that have involved scores of head
6 trauma, have you been privy to information as far as
7 medical findings, autopsy reports, things of that
8 nature in relation to those prior investigations?

9 A Yes, sir. I have been.

10 Q Now, with regard to your observations of
11 Mr. O'Keefe with regard to his eyelids, what, if any,
12 observations did you make and what, if any -- well,
13 let me start just with the physical observations.
14 What, if any, physical observations did you make of
15 Mr. O'Keefe's face and body in general?

16 A His face, I observed the swelling and the
17 discoloration being produced through the blood pooling
18 in the eyelids.

19 MR. JACKSON: Objection.

20 THE COURT: Yes. So just your observations.

21 There was swelling and discoloration.

22 MR. JACKSON: Move to strike the last part.

23 THE COURT: I'll strike the remainder of what
24 you said.

25 THE WITNESS: I also observed a cut to his

1 nostril and an eyelid which was very small in size,
2 which would have been produced by a --

3 MR. JACKSON: Objection.

4 THE COURT: So we will leave it at that. Next
5 question, Mr. Lally.

6 BY MR. LALLY:

7 Q Based on your training and experience, what,
8 if any, conclusions or what, if any, opinions did you
9 have in regard to the swelling around the eyes?

10 MR. JACKSON: Objection.

11 THE COURT: I'll see you at sidebar.

12 (Whereupon, there was a sidebar conference as
13 follows:)

14 THE COURT: So he can't give medical
15 testimony. He can say what he's observed here and
16 he has observed in other instances, but he can't
17 say what this was caused by based on his
18 experience.

19 MR. LALLY: Okay.

20 THE COURT: That is the nature of the
21 objection?

22 MR. JACKSON: It is.

23 THE COURT: Okay.

24 MR. LALLY: Understood.

25 (Whereupon, the sidebar conference concluded.)

1 MR. LALLY: May I proceed, Your Honor?

2 THE COURT: Yes.

3 BY MR. LALLY:

4 Q So, Sergeant Bukhenik, with reference to your
5 prior death investigations, have you had occasion to
6 make observations of bodies that there was a later
7 determination of some sort of subdural hemorrhage?

8 A Yes.

9 MR. JACKSON: Objection.

10 THE COURT: I'll allow that. Have you made
11 those observations? Have you been part of those
12 investigations?

13 THE WITNESS: Yes, Your Honor.

14 BY MR. LALLY:

15 Q And what you observed in regard to
16 Mr. O'Keefe, was that consistent or inconsistent with
17 what you had observed on those prior investigations?

18 MR. JACKSON: Objection.

19 THE COURT: That I'll allow.

20 THE WITNESS: It was consistent.

21 BY MR. LALLY:

22 Q Now, in addition to the injuries that you
23 observed to Mr. O'Keefe's face, what, if any, injuries
24 did you observe to his extremities?

25 A His extremities produced abrasions to his

1 upper forearm and lower biceps area on his right arm.

2 Q Just as you use that term -- I'm not asking
3 you for any sort of medical definition. But, as far as
4 you use that term "abrasions," what do you understand
5 that term to be?

6 A I understand that term to be an injury
7 sustained through blunt force trauma or friction to the
8 epidermis of the skin where a crushing of the vascular
9 system occurs and produces that type of sign on the
10 skin.

11 Q And, from your observations of the injuries to
12 Mr. O'Keefe's arm, which arm was this again?

13 A It was his right arm.

14 Q And, as far as your observation to those
15 injuries to his right arm, what, if any -- as far as
16 the consistency of those injuries, what, if anything,
17 did you note or observe in reference to those?

18 MR. JACKSON: Objection.

19 THE COURT: Consistency with what?

20 MR. LALLY: Let me rephrase it.

21 THE COURT: Yes.

22 BY MR. LALLY:

23 Q How were the abrasions that you're describing
24 positioned in relation to each other?

25 A Each abrasion appeared to me to be linear and

1 concentrated in a specific location on the arm. It
2 didn't go any further north of a point and did not go
3 any further south of a point. So it was concentrated
4 in the elbow, a few inches below the elbow, a few
5 inches above the elbow on the right arm.

6 Q Now, while you were at the Good Samaritan
7 Hospital, did you endeavor to speak with Ms. Read?

8 A We did attempt to, yes.

9 Q And was she present at the hospital at that
10 time?

11 A No, she was not.

12 Q And at some point subsequent to that, did you
13 receive or what, if any, information did you receive as
14 to her whereabouts?

15 A We were made aware that she was located at 345
16 Country Hill Drive in Dighton at her parents' home.

17 Q And where did you go from the Good Samaritan
18 Hospital once you left there?

19 A We proceeded to that location.

20 Q Now, sir, with reference to the items of
21 clothing that you recovered from the Good Samaritan of
22 Mr. O'Keefe's, do you have those items of clothing with
23 you here today in court?

24 A Yes, I do.

25 MR. LALLY: Your Honor, with the Court's

1 permission, I would ask that the witness be allowed
2 to retrieve those items and display those items.

3 THE COURT: Okay. Are they in the courtroom?

4 MR. LALLY: I believe so, yes.

5 THE COURT: Okay. Yes.

6 MR. LALLY: May I approach?

7 THE COURT: Yes. How many items are there?

8 MR. LALLY: Four, Your Honor.

9 THE COURT: Okay. Jurors, if we go a little
10 past one, my intention would be to still just take
11 a half hour lunch today and come back. So I'd
12 rather just go through this if we could.

13 BY MR. LALLY:

14 Q Sergeant, presenting you with this item, do
15 you recognize that?

16 A Yes, I do.

17 Q And what do you recognize that to be?

18 A The sweatshirt from the hospital room where
19 Mr. O'Keefe was located.

20 MR. LALLY: Your Honor, the Commonwealth would
21 seek to introduce and admit that as the next
22 exhibit.

23 THE COURT: Okay. Any objection, Mr. Jackson?

24 MR. JACKSON: I'd like to see what's in the
25 bag before I would object. But on principle, no.

1 THE COURT: All right. So you have received
2 photos of all of this, right?

3 MR. JACKSON: I assume what's in the bag is
4 what's been photographed. But, until I see it, I
5 won't know.

6 THE COURT: All right. So let's go ahead and
7 open it.

8 MR. LALLY: With the Court's permission?

9 THE COURT: Yes.

10 MR. JACKSON: No objection.

11 MR. LALLY: Mr. Lally, why don't you put that
12 back in.

13 (Whereupon, bag containing sweatshirt was entered
14 and marked Exhibit No. 437 in Evidence.)

15 THE COURT REPORTER: Exhibit 437, Your Honor.

16 MR. LALLY: May I approach, Your Honor?

17 THE COURT: Yes.

18 BY MR. LALLY:

19 Q Handing you another item, sir, do you
20 recognize that item?

21 A Yes, I do.

22 Q And what do you recognize that to be?

23 A It says it's one orange tee shirt.

24 MR. LALLY: And, Your Honor, with the Court's
25 permission, if the witness could remove that item

1 and display it for the jury, as well?

2 THE COURT: Yes.

3 THE CLERK: No objection, Your Honor.

4 THE COURT: Okay.

5 (Whereupon, bag containing tee shirt was entered
6 and marked Exhibit 438 in Evidence.)

7 THE COURT REPORTER: Exhibit 438.

8 MR. LALLY: Your Honor, may I approach?

9 THE COURT: Yes.

10 BY MR. LALLY:

11 Q I hand you another item, sir. Do you
12 recognize that?

13 A Yes. It's the right sneaker recovered from
14 the hospital.

15 MR. LALLY: Your Honor, with the Court's
16 permission, if the witness could remove that item
17 from the bag and display it for the jury?

18 THE COURT: Yes.

19 MR. JACKSON: Your Honor, may we approach
20 briefly?

21 THE COURT: Okay.

22 (Whereupon, there was a sidebar conference as
23 follows:)

24 MR. JACKSON: My issue, now that we've started
25 to go through this, is this officer did not bag

1 these items. His name is not on the items. His
2 handwriting is not on the items. And some of the
3 items, for instance, the orange tee shirt -- why
4 I'm confused, why it's confusing, that's not the
5 bag that orange shirt came in. That's been
6 completely changed. That orange shirt and the gray
7 shirt were bagged together, and that's the only
8 evidence I've got. I've got a bag that says,
9 orange shirt and gray tee shirt. Reverse that.
10 Orange tee shirt and gray sweatshirt bagged
11 together by Proctor. And now we've got other bags,
12 and I don't know who -- I can't see that far. I
13 don't know who bagged these, if there was --

14 THE COURT: What do you say?

15 MR. LALLY: Your Honor, as far as when the
16 items were initially bagged, this witness was
17 present for when that occurred. This witness was
18 also present when counsel was present at our office
19 when counsel came into view these items and they
20 were all --

21 MR. JACKSON: No. He was not there.

22 MR. LALLY: He was.

23 THE COURT: Go ahead.

24 MR. LALLY: Yes, he was.

25 THE COURT: Finish your --

1 MR. LALLY: And these items were bagged as
2 they are now at that time, as well. So I don't
3 know what the surprise is.

4 MR. JACKSON: Well, I didn't see anything, bag
5 to back up. I was at the office to look at the
6 clothing. They were cut open and placed back in
7 the same bags that they were cut open from. They
8 weren't changed. The bags weren't changed. This
9 is the first time I've ever seen Bukhenik in person
10 in my life. And, if he was in the office -- he may
11 have been in the office. He was not in that room.

12 MR. LALLY: He was in that room.

13 MR. JACKSON: Tully was in the room.

14 MR. LALLY: Tully was in the room. Chris
15 Moore was in the room. Sergeant Bukhenik was in
16 the room. Sergeant Bukhenik left at some point
17 when the items were taken out because he accompany
18 Ms. Gaffney and Trooper Guarino for the -- but he
19 was both present at the Foxboro barracks when we
20 were there with the vehicle, and he was present in
21 the conference room, in the office, when all of
22 those items were taken out of the bags. And he
23 wrote a report in regard to that.

24 MR. JACKSON: Okay. My issue is -- I'm not
25 discounting that. There were a lot of people in

1 the room and I don't discount Mr. Lally's memory.
2 Mine may be faulty. I don't know where the
3 original bag is that Mr. Lally showed yesterday
4 with a different witness. It's not that bag. That
5 is my issue, is how did this get rebagged. I mean,
6 the bags are important in this case but some cases
7 they're not. In this case, they are.

8 THE COURT: All right. You're not disputing
9 this is the orange tee shirt?

10 MR. JACKSON: No.

11 THE COURT: All right. So let's put this in
12 and then we can figure out after how you go about
13 it.

14 MR. JACKSON: This is a chain-of-custody
15 issue.

16 THE COURT: Yes. This won't go into evidence
17 at this point. It may well be that you have to do
18 it through cross.

19 MR. JACKSON: Right. Okay. I just wanted to
20 note it. Thank you.

21 THE COURT: Okay.

22 (Whereupon, the sidebar conference concluded.)

23 THE COURT: All right. You may continue,
24 Sergeant.

25 All right. Mr. Lally?

1 MR. LALLY: Yes.

2 BY MR. LALLY:

3 Q Thank you, sir. If you could return that to
4 the bag, please.

5 MR. LALLY: The Commonwealth seeks to
6 introduce and admit as the next exhibit, Your Honor

7 THE COURT: Mr. Jackson?

8 MR. JACKSON: No objection.

9 THE COURT: Thank you.

10 (Whereupon, bag containing sneaker was entered and
11 marked Exhibit No. 439 in Evidence.)

12 THE COURT REPORTER: Exhibit 439, Your Honor.

13 MR. JACKSON: Your Honor, I guess I should
14 have said "no objection" with what we discussed at
15 sidebar.

16 THE COURT: I understand.

17 MR. JACKSON: Thank you.

18 MR. LALLY: Your Honor, may I approach the
19 witness stand?

20 THE COURT: Yes.

21 BY MR. LALLY:

22 Q One last item from that set. Do you recognize
23 that?

24 A Yes. It is a bag containing blue jeans, black
25 belt and black boxer shorts.

1 MR. LALLY: Your Honor, with the Court's
2 permission, may the witness remove just the jeans
3 and the belt from the bag?

4 THE COURT: Yes.

5 BY MR. LALLY:

6 Q Thank you, sir. You can return that to the
7 bag, sir.

8 MR. LALLY: Your Honor, the Commonwealth would
9 seek to introduce and admit as the next exhibit.

10 MR. JACKSON: No objection, Your Honor.

11 THE COURT REPORTER: Is it just the jeans and
12 the belt or the third item, as well?

13 THE COURT: So are you not displaying the
14 third item but it's going into evidence or is it
15 just the jeans and the belt going into evidence?

16 MR. LALLY: Just the jeans and the belt into
17 evidence, Your Honor, with the Court's permission.

18 THE COURT: So we can mark the bag and we will
19 remove the third item.

20 MR. LALLY: Thank you.

21 (Whereupon, bag containing jeans and belt was
22 entered and marked Exhibit No. 440 in Evidence.)

23 THE COURT REPORTER: Exhibit 440, Your Honor.

24 THE COURT: Thank you.

25 THE COURT: All right. So, Sergeant, you'll

1 be with us this afternoon. Why don't we take our
2 luncheon recess. It is only going to be about a
3 half an hour.

4 THE WITNESS: Thank you, Your Honor.

5 THE COURT: All right. So, folks, we'll see
6 you back here let's say no later than 1:40. Okay?
7 (Whereupon, the jury is escorted from the courtroom
8 and the luncheon recess is taken.)
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A F T E R N O O N S E S S I O N

(Court resumes.)

(Defendant present. Jury present.)

THE COURT: All right, Mr. Lally.

MR. LALLY: Your Honor, may we approach just briefly?

(Whereupon, there was a sidebar conference as follows:)

MR. LALLY: Your Honor, this is a question in reference to those photos.

THE COURT: Are you putting them in right now?

MR. LALLY: I can wait if the Court wants me to, but I --

THE COURT REPORTER: I'm having trouble.

THE COURT: Yes. Did you hear that?

THE COURT REPORTER: No.

THE COURT: Would you repeat yourself?

MR. LALLY: Yes, Your Honor. I don't have to put them in right now but that was my intention is to just clean up and leave from the hospital, basically.

THE COURT: All right. So I just need like a minute to -- I am going to give a gruesome photograph instruction. I just need a minute for that.

1 MR. LALLY: Oh, sure.

2 THE COURT: You can start laying the
3 foundation, I guess.

4 MR. LALLY: Okay.

5 THE COURT: The other thing is on the
6 statement, the recording from the Milton barracks,
7 you sent around a link as to what we had talked
8 about before.

9 MR. LALLY: Yes, Your Honor.

10 THE COURT: So in order for me to give an
11 instruction on that, I need to know -- I thought we
12 were keeping out the fact that she was in custody.
13 It was just that she was at the Milton Barracks.

14 MR. LALLY: Correct.

15 THE COURT: So if she's not in custody, they
16 don't have to give her Miranda warnings.

17 MR. JACKSON: Right.

18 THE COURT: So I don't then intend to draw
19 attention to the fact that she is there by saying
20 she needs to be given Miranda warnings.

21 MR. JACKSON: I totally agree.

22 THE COURT: The statement, itself, obviously,
23 still needs to be voluntary.

24 MR. JACKSON: Right.

25 THE COURT: I just won't mention the part

1 about Miranda warnings if you tell me that you
2 don't want me to.

3 MR. JACKSON: That's a good catch, and I do
4 not want you to.

5 THE COURT: Okay. So you can lay the
6 foundation on that. It will take me a minute or
7 two to find the instruction. Okay. Thank you.

8 (Whereupon, the sidebar conference concluded.)

9 THE COURT: You can go ahead, Mr. Lally.

10 MR. LALLY: Yes. Thank you, Your Honor.

11 BY MR. LALLY:

12 Q Sergeant Bukhenik, those items as far as the
13 clothing items that you displayed for the jury prior to
14 the recess, those were the same clothing items that you
15 recovered from the hospital room of the Good Samaritan
16 on January 29th; is that correct?

17 A Yes, sir.

18 Q Now, you had mentioned earlier in your
19 testimony that those items had been placed into one bag
20 initially. What, if anything, happened with those
21 items as far as their keeping or their bagging once you
22 got back to the office or to the evidence room?

23 A Due to the condition of those items after they
24 arrived at the office, the items were laid out on
25 butcher's paper that we utilize for evidence viewing

1 and allowed to dry naturally because they were soaking
2 wet.

3 Q And, as far as when they were done with that
4 sort of drying process, how were they packaged from
5 there?

6 A They were packaged in the bags, sealed up and
7 stored for transport and processing.

8 Q And so those would be bags individual for each
9 clothing item; is that correct?

10 A Each item the way that it was packaged, the
11 pants with the belt and the boxers and so on and so
12 forth, with the sweatshirt and the sneakers.

13 Q And we'll get to this a little bit more in a
14 moment, but at some point there were pieces of plastic,
15 red and clear plastic, that were recovered by you and
16 other troopers from Fairview Road; is that correct?

17 A That's correct.

18 Q At any point in time, were pieces of clear and
19 red plastic that were recovered from 34 Fairview Road
20 ever placed in the same evidence bag as any piece of
21 clothing that you recovered from Good Samaritan?

22 A No. Absolutely not.

23 Q Now, with reference to the hospital at Good
24 Samaritan, in addition to yourself and Trooper Proctor,
25 were there other members of the state police or other

1 units of the state police that arrived at the hospital
2 at some point?

3 A Yes, sir. Lieutenant Mello came to the
4 hospital to document the victim and the clothing. He's
5 assigned to the state police crime scene services
6 section.

7 Q Now, as far as the crime scene services
8 section or CSSS, what, if any, role did they have with
9 relation to your investigation in this case or your
10 investigations in general as far as documentation is
11 concerned?

12 A Crime scene services section assists us in
13 documenting scenes through video and photographs. They
14 also assist in collecting latent prints and
15 fingerprints. They assist in collecting impressions,
16 like foot impressions in mud or soil and those types of
17 methods.

18 Q Now, there are a number of different troopers
19 that are assigned to that particular unit; is that
20 correct?

21 A That's correct.

22 Q And, as far as over the course of this
23 investigation, how many occasions approximately were
24 there that a member of the crime scene services section
25 responded to or memorialize or photograph different

1 scenes or different areas throughout the course of your
2 investigation in this case?

3 A Just off the top of my head, there would be
4 four, five, maybe six instances where a trooper or a
5 sergeant from crime scene services responded to the
6 scene to assist us in this investigation.

7 Q Now, at any point in time over the course of
8 the investigation when crime scene services troopers
9 responded to document anything, was it ever the same
10 trooper more than once?

11 A No, it was not.

12 Q And so with regard to January 29th back at the
13 Good Samaritan Hospital, there were -- then
14 Sergeant Mello arrived to document or photograph
15 Mr. O'Keefe, correct?

16 A That's correct.

17 MR. LALLY: Your Honor, may I approach the
18 witness?

19 THE COURT: Yes. Mr. Lally, do you want me to
20 give my instruction now or not?

21 MR. LALLY: In just about 30 seconds or so,
22 Your Honor.

23 BY MR. LALLY:

24 Q And so, Sergeant Bukhenik, I've just placed
25 three photographs before you. Do you recognize what's

1 depicted in those three photographs?

2 A I do.

3 Q And what do you recognize those to be?

4 A That is Mr. John O'Keefe.

5 Q And what's contained within those photographs,
6 is that a fair and accurate portrayal of what you saw
7 of Mr. O'Keefe's body at the Good Samaritan Hospital on
8 January 29th?

9 A Yes, it is.

10 MR. LALLY: Your Honor, may I approach again?

11 THE COURT: Yes.

12 MR. LALLY: The Commonwealth of Massachusetts
13 would seek to introduce as the next exhibits.

14 THE COURT: All right. There is no objection,
15 right?

16 MR. JACKSON: There is none.

17 THE COURT: So, folks, the Commonwealth is
18 introducing into evidence through this witness
19 certain photographs that are not pleasant and may
20 be considered graphic photos.

21 Sometimes evidence is presented that creates
22 an emotional reaction in jurors. For example, it's
23 natural and understandable when you hear about a
24 person who is injured in some serious way or
25 suffered in some way or who has passed away.

1 But, as jurors, you have taken an oath to
2 follow the law, and I instruct you that you must
3 separate any emotional reaction on your part from
4 the information on value and weight of the
5 evidence. You must not be influenced in any way by
6 the nature of some of the testimony and you must
7 find the facts in this case based only on the
8 evidence. You can't find facts or base your
9 decision on sympathy, anger, passion or prejudice
10 or pity for or against either side in this case.
11 Rather, your verdict must be based solely on the
12 evidence and my instructions on the law.

13 All right. With that, Mr. Lally, those photos
14 will be in evidence.)

15 MR. LALLY: Thank you.

16 (Whereupon, photographs were entered and marked
17 Exhibits No. 441 through 443 in Evidence.)

18 MR. LALLY: Your Honor, with the Court's
19 permission, may I publish just briefly with respect
20 to the photographs?

21 THE COURT: Yes.

22 THE COURT REPORTER: Exhibits 441 through 443.

23 THE COURT: Thank you.

24 MR. LALLY: And, Ms. Gilman, if I could have
25 Photograph 2866.

1 Q And, Sergeant, directing your attention to the
2 scene, what's displayed on there now has been marked as
3 Exhibit No. 441. Do you recognize that?

4 A Yes, I do.

5 Q Using the laser pointer on the desk before
6 you, if you could draw the jury's attention to what, if
7 anything, of significance you observed in this
8 particular photograph of Mr. O'Keefe?

9 A I observed the swelling of the eyelids, slight
10 laceration of the nostril and eyelid, the blood pooling
11 on the bed in that depiction of Mr. O'Keefe.

12 Q Thank you.

13 MR. LALLY: Ms. Gilman, could I have

14 Photograph 2857?

15 Q Again, sergeant, do you recognize what's up on
16 the screen and has now been marked as Exhibit 442?

17 A I do.

18 Q Similar to the prior exhibit, if you could,
19 using the laser pointer, direct the jury's attention to
20 what, if anything, of significance you observe in this
21 photo?

22 A I observed the lateral -- excuse me --
23 parallel lacerations -- excuse me -- abrasions and
24 markings on the skin of Mr. O'Keefe, limited between
25 that point there and that point there (indicating) as I

1 described earlier in my testimony.

2 MR. LALLY: And, Ms. Gilman, if I could have
3 2859?

4 Q Again, Sergeant, do you recognize what's up on
5 the screen that has now been marked as Exhibit 443?

6 A I do.

7 Q And what do you see in this photograph, sir?

8 A It's the same abrasions to Mr. O'Keefe's right
9 arm, just further up on the biceps/triceps shoulder
10 area.

11 Q Thank you, sir.

12 MR. LALLY: Ms. Gilman, you can take that
13 down.

14 Q Now, Sergeant, taking you back to January
15 29th, 2022, after you left the Good Samaritan Hospital,
16 where is it that you went?

17 A I went to 325 Country Hill Drive in Dighton.

18 Q And that was the residence of Ms. Read's
19 parents; is that correct?

20 A That is correct.

21 Q Now, on your way from the Good Samaritan in
22 Brockton to the residence in Dighton, what, if any,
23 communication did either you or Trooper Proctor have
24 with regard to the Dighton Police?

25 A I advised Trooper Proctor to contact Dighton

1 Police dispatch and advise them that we would be
2 responding to the location at 345 Country Hill Drive
3 and seizing a vehicle. And we were requesting uniform
4 patrols to assist us in that mission.

5 Q And why was that request made of the local
6 P.D.?

7 A We were going into their jurisdiction. There
8 was a blizzard going on. We were considerate of the
9 circumstance and wanted to be courteous to the
10 residents and not just show up without any uniform
11 presence. We had never met the Read family. They have
12 never met us. And, with the clothing that we were
13 wearing, it would be difficult for them to see that we
14 were law enforcement.

15 Q And so as you arrive in that area of the
16 residence in Dighton, where did you position
17 yourselves, and when did you arrive in relation to the
18 marked unit from Dighton?

19 A We called them while we were still on the
20 highway and gave them an approximate time of arrival.
21 GPS was not accurate due to the conditions at the time
22 on the roadways.

23 Once we arrived to Dighton, I positioned my
24 vehicle at the top of Country Hill Drive, awaiting a
25 marked uniformed officer from Dighton to meet us there.

1 Q And, if you know, about how long approximately
2 did it take you to get from Brockton to Dighton on that
3 particular day?

4 A From Brockton to Dighton, it took us about 45
5 to an hour, 45 minutes to an hour, to travel that
6 distance.

7 Q And, if you know, about what time was it that
8 you arrived at the residence in Dighton?

9 A We arrived approximately on the street at 2:30
10 or so in the afternoon, and we waited for a significant
11 amount of time for the uniform patrol to arrive.

12 Q And, when the uniform patrol arrived at some
13 point, did you learn the name of at least one of those
14 officers that arrived at the residence with you?

15 A At the time, I did, yes.

16 Q And was that an Officer Barros?

17 A Yes, it was.

18 Q And so when Officer Barros arrived, where did
19 you then proceed with Officer Barros upon his arrival?

20 A Well, the road was only plowed the width of
21 one vehicle. So even though he and his partner were in
22 an F-150 or 250 marked police cruiser, we could only
23 travel in a single line. We traveled up to the cul-de-
24 sac, turned around and positioned our vehicles facing
25 back out to the way that we entered the roadway or that

1 street. We parked on the roadway since the driveway
2 was not plowed. And we walked, waded, through the snow
3 to the front door of the residence.

4 Q When you say "the driveway was not plowed" or
5 you "waded through the snow," can you describe to the
6 jury sort of the condition of the driveway as you made
7 your way from the street to the house?

8 A With the blowing winds and the drifting snow,
9 there were locations along our walk to the property
10 with snow varying from knee high to up to my waist.
11 For reference, I'm six-foot-one. So it was quite deep
12 in some locations.

13 Q And, as you made your way to the home, what,
14 if anything, did you observe in the driveway?

15 A As we walked up to the driveway, in front of
16 the garage we observed a large Lexus, black in color,
17 SUV bearing Massachusetts Registration 3GC 684.

18 Q And, subsequently, did you come to find out
19 whose vehicle that was?

20 A Yes. Once we queried the plate, we learned
21 that the vehicle was registered to the defendant.

22 Q And, as you are going by this vehicle, what,
23 if any, observations did you make of the vehicle as you
24 were walking past it toward the home?

25 A I observed a damaged rear right taillight

1 fixture on the vehicle from my vantage point. I also
2 told Trooper Proctor to approach the vehicle closer and
3 confirm what I was seeing, which he did.

4 Q And, as far as that damage to the right
5 passenger taillight area, can you describe sort of what
6 it was that you saw during that initial phase?

7 A Absolutely. During the initial phase, I
8 observed snow compacted and caked onto portions of the
9 taillight casing. There were pieces missing, and I
10 knew that because the left side taillight was intact.

11 Q And, as you made your way past the vehicle to
12 the home, at some point are you greeted or do you meet
13 someone in the area of the home?

14 A Yes. Once we walked up to the front door, I
15 rang the doorbell and Mr. Read opened the front door
16 with the storm door, glass storm door, unable to open
17 due to the level of snow on the ground and on the front
18 steps.

19 Q And so where were you directed to enter the
20 home from?

21 A Mr. Robinson directed us to the garage door,
22 at which point it opened up and Trooper Proctor and I
23 entered the garage, where, once again, we were greeted
24 by Mr. Read and invited into the home.

25 Q And Officer Barros. Where did he remain when

1 you and Trooper Proctor went into the home?

2 A He remained outside with the vehicle. During
3 our time in the home, Officer Barros came in and asked
4 us what the plan was and offered to have DPW plow out
5 the driveway because the tow truck was not able to
6 maneuver into the driveway in order to retrieve that
7 vehicle.

8 Q Now, as far as any time that you were on scene
9 or at this residence in Dighton, did you, yourself, or
10 did you observe Trooper Proctor touch that vehicle at
11 any point and in any way while you were there?

12 A No.

13 Q And did you observe Officer Barros or any
14 other personnel beyond the tow truck driver touch the
15 vehicle in any way?

16 A No.

17 Q And, as far as the tow truck driver was
18 concerned, did you observe that individual touch
19 anywhere in the rear passenger side area of that
20 vehicle at any time that you were there?

21 A No.

22 Q So then you proceed inside the home. And,
23 when you get inside the home, where did you go and who,
24 if anyone, did you speak with?

25 A We were directed by Mr. Read to the living

1 room, where the defendant was seated on the couch. She
2 had her laptop on her lap and her phone resting on the
3 right armrest of the couch.

4 Q Now, in addition to the defendant and her
5 father, who, if anyone, else was present when you
6 talked to Ms. Read?

7 A The defendant's mother, Mrs. Read, was also
8 present in the home.

9 Q And the defendant's mother and the defendant's
10 father, were they present throughout the course of your
11 interview or your discussion with Ms. Read?

12 A Yes, they were.

13 Q And, at any point in time, did you ask them to
14 leave or anything like that?

15 A I did not.

16 Q Now, with respect to -- can you describe sort
17 of the demeanor or the tone of the conversation that
18 you had with Ms. Read that afternoon?

19 A It was polite, courteous. She had just went
20 through a traumatic event. So we were considerate of
21 her losing her boyfriend. And we had a normal tone
22 conversation. We were in the information gathering,
23 fact-finding portion of the investigation. We simply
24 wanted to collect her recollection of events that she
25 remembered.

1 Q And so throughout the course of this
2 interview, how are you -- are you standing or are
3 you seated or how are you positioned in relation to
4 Ms. Read and how is she positioned in relation to you?

5 A She was sitting on the couch. We were
6 standing across the room. I don't recall if there was
7 as coffee table. But, if there was a coffee table, we
8 would be standing on the opposite side of that coffee
9 table, if there was one present. I do not remember if
10 there was one present. But that's the distance
11 approximately from me to the defense table.

12 Q And, if you could, describe to the jury sort
13 of how did that interview or how did that conversation
14 begin? What was said?

15 A First things first, we introduced ourselves
16 and advised the individual we were speaking with who we
17 are, where we work and what we are looking to find out.
18 The defendant was advised that we're looking to get a
19 recollection of the events, what happened, what she
20 observed, what she remembers from the night before and
21 to walk us through the last 24 hours or so of activity.

22 Q And, prior to --

23 MR. LALLY: Do I need to give an instruction,
24 Mr. Lally? I'm not sure exactly. Why don't I see
25 counsel at sidebar.

1 MR. LALLY: Sure.

2 (Whereupon, there was a sidebar conference as
3 follows:

4 THE COURT: So they determine ultimately that
5 they are not going to really interview her now?

6 MR. LALLY: No. They do. They interview her.

7 THE COURT: All right. So at this point, she
8 is clearly not in custody. We're not asking for
9 Miranda. It's strictly voluntary statements.

10 MR. LALLY: Correct.

11 THE COURT: Why don't I tell you what I intend
12 to give and then if there is any --

13 MR. JACKSON: Sure.

14 THE COURT: You're about to hear testimony
15 about statements allegedly made by the defendant
16 allegedly concerning the crimes charged in this
17 case. Before you may even consider any such
18 statement as evidence, the Commonwealth must prove
19 to you beyond a reasonable doubt that the defendant
20 made the statement that she's alleged to have made
21 and that she made it voluntary, freely and
22 rationally.

23 In determining whether any statement made by a
24 defendant was voluntary or not, you may consider
25 all the surrounding circumstances. These include

1 when and where the statement was made, the nature
2 of any conversations with the police or questioning
3 by the police and the defendant's physical and
4 mental condition, including her intelligence, age,
5 education, experience and personality. Your
6 decision does not turn upon any one factor. You
7 must consider the totality of the surrounding
8 circumstances.

9 MR. JACKSON: The only thing I would ask the
10 Court to add is when you use the example of age,
11 mental capacity, et cetera, is to include a
12 statement about potential for any medication that
13 she might have taken. There is evidence that she
14 was heavily sedated in the hours before this.

15 THE COURT: So that's why I'm talking about
16 mental condition. I'm not going to specifically
17 mention medication.

18 MR. JACKSON: Okay. That's fine.

19 THE COURT: Other than that, you want me to
20 stay away from Miranda, as we discussed?

21 MR. JACKSON: Correct.

22 THE COURT: And you're satisfied about just
23 voluntary and the circumstances?

24 MR. JACKSON: With the noted request that I
25 made, yes, I'm satisfied.

1 THE COURT: We haven't heard anything about
2 that yet.

3 MR. JACKSON: Okay.

4 THE COURT: Thank you.

5 (Whereupon, the sidebar conference concluded.)

6 THE COURT: All right. So I interrupted you,
7 Sergeant, and I am going to instruct you, jurors.
8 Okay?

9 We are about to hear testimony about
10 statements allegedly made by the defendant,
11 Karen Read, allegedly concerning the crimes that
12 are charged in this case.

13 Before you may even consider any such
14 statement as evidence, the Commonwealth must prove
15 to you beyond a reasonable doubt that the defendant
16 made the statement that she's alleged to have made
17 and that she made it voluntarily, freely and
18 rationally.

19 In determining whether any statement made by
20 the defendant was voluntary or not, you may
21 consider all the surrounding circumstances. These
22 include when and where the statement was made, the
23 nature of any conversations with the police or
24 questioning by the police, and the defendant's
25 physical and mental condition, including her

1 intelligence, age, education, experience and
2 personality. Your decision does not turn upon any
3 one factor. You must consider the totality of the
4 surrounding circumstances.

5 I'll instruct you about this again at the end
6 of the case. But for purposes of as you hear the
7 testimony, that's the lens that you sort of have to
8 hear it through.

9 All right. With that, Mr. Lally.

10 MR. LALLY: Thank you, Your Honor.

11 BY MR. LALLY:

12 Q Sergeant Bukhenik, when you began to speak to
13 the defendant prior to any sort of substantive
14 conversation, what, if any, conversation did you have
15 with her about the conversation you were going to have?

16 A I just asked her to recount any events and the
17 history between the actions that were taking place.

18 Q And how did she initially respond to that?

19 A She stated that she's willing to answer our
20 questions. She just doesn't want to go into too much
21 detail about what transpired. And, given the
22 circumstances that she had just lived through, I
23 understood and gave her that courtesy.

24 Q And, as far as that interview or that
25 conversation went, can you describe that conversation

1 or the contents of that conversation to the jury?

2 A Absolutely. The conversation was normal tone
3 of voice like I am speaking to you right now. Ms. Read
4 responded in the same tone of voice, answering
5 questions. The content of the conversation began with
6 her saying that, as I stated, she doesn't want to go
7 into too much detail but she was willing to answer our
8 questions.

9 We asked what she was -- what she had for
10 plans, what she had for as far as activity the night
11 before, leading up to Mr. O'Keefe being discovered.
12 She stated that she was in a relationship with
13 Mr. O'Keefe that morning, meaning the 28th of January.
14 She got into a fight with Mr. O'Keefe over what the
15 niece and nephew were being fed for breakfast or what
16 they had for breakfast.

17 She went on to say that she met Mr. O'Keefe at
18 C.F. McCarthy's approximately 9:00 p.m., the night of
19 the 28th of January, 2022. She stated that the
20 gentlemen were drinking, consuming beers, Bud Lights;
21 and she was drinking vodka soda.

22 Prior to moving on to the bar at Waterfall,
23 the defendant was asked where she parked her vehicle.
24 She told me that she parked her vehicle on Washington
25 Street across the street from C.F. McCarthy's, facing

1 north. So the vehicle was on the side of Waterfall Bar
2 & Grille.

3 We went on through the conversation, the
4 interview, to the Waterfall restaurant, at which point
5 she was asked if she left C.F. McCarthy's with a
6 beverage or a container from that establishment, to
7 which she stated that she did not. She also confirmed
8 that Mr. O'Keefe did not have any injuries on him when
9 she interacted with him at C.F. McCarthy's or the
10 Waterfall. He did not get into any verbal or physical
11 altercations with anyone to have sustained those
12 injuries. She stated that once at the Waterfall, they
13 stayed for approximately an hour, hanging out with
14 acquaintances.

15 Then they left the Waterfall. She drove them
16 to -- after they were invited to a residence, she drove
17 them to a location in Canton, where she dropped
18 Mr. O'Keefe off. She was asked if she saw Mr. O'Keefe
19 walk into the home at 34 Fairview, and she stated she
20 did not.

21 She stated that she made a three-point turn
22 after dropping him off and left. She was asked whether
23 or not Mr. O'Keefe -- excuse me. Let me back up.

24 She was asked how she found out about the
25 damage to her vehicle, to which she stated, quote, "I

1 don't know. It happened last night," end quote.

2 Q Now, at some point earlier in the interview,
3 what, if any, indication did she give as to who
4 Mr. O'Keefe was with when she arrived at C.F.
5 McCarthy's and sort of how long he had been with those
6 respective people.

7 A She indicated that Mr. O'Keefe was with
8 Mr. Camerano, Kurt Roberts, at which point she was
9 asked to provide contact information, meaning phone
10 numbers for those individuals, at which time she picked
11 up the phone on the right armrest of the couch,
12 manipulated the device, entering a passcode and
13 provided that phone number to Trooper Proctor and I.

14 Q At any point in time in the conversation or
15 the interview you had with her, what, if anything, did
16 the defendant say in regard to why she had not gone
17 into the residence of Fairview Road herself?

18 A The defendant stated that she was having
19 stomach issues and did not want to enter the residence.

20 Q Now, what, if anything, did she tell you about
21 later on that morning of the 29th?

22 A She stated that when she woke up, she began
23 looking for Mr. O'Keefe. And, when she found him in
24 the snow, she began CPR on Mr. O'Keefe.

25 Q And what, if anything, did she say to you

1 about any observations she made of Mr. O'Keefe later on
2 that morning as far as any injuries to Mr. O'Keefe?

3 A The defendant stated that while she was
4 performing CPR, Mr. O'Keefe had sustained injuries and
5 was bleeding from the nose and the mouth.

6 Q And, if you recall, what, if anything, did she
7 say about Mr. O'Keefe's eyes at that time?

8 A The defendant stated that Mr. O'Keefe's were
9 swollen.

10 Q And is that both eyes; is that correct?

11 A That's correct.

12 Q Now, as the interview progressed, at some
13 point did you ask questions seeking further details?

14 A Yes, I did.

15 Q And details about what specifically were you
16 asking?

17 A Once we got to the point in time where the
18 defendant told me she did a three-point turn, I asked
19 her to walk through step by step of her operating the
20 vehicle and exactly what she did. Prior to that, I
21 asked her -- excuse me. So she was asked to give us a
22 step-by-step recollection on how she -- what she did in
23 manipulating the vehicle and leaving the scene.

24 Q And, at that point, was the interview
25 terminated?

1 A Yes, it was.

2 Q Now, once the interview concluded or was
3 terminated, what, if anything, did you do with
4 reference to Ms. Read's phone and the defendant's
5 vehicle?

6 A Once the interview was terminated, I advised
7 Ms. Read that her phone was going to be seized as
8 evidence and her vehicle is going to be seized as
9 evidence, as well.

10 Q And did you subsequently seize both of those
11 items, sir?

12 A Yes, we did.

13 Q And, similar to the clothing of Mr. O'Keefe,
14 as far as evidence was concerned, was that packaged and
15 taped and transported back to the office in a similar
16 fashion?

17 A The device was. The vehicle was transported
18 via tow truck that was dispatched by Dighton P.D. upon
19 our request.

20 Q And so when you get back outside of the
21 residence after the conclusion of your interview with
22 the defendant, what, if anything, did you observe going
23 on with regard to the driveway and/or any other
24 vehicles that weren't there when you went into the
25 house?

1 A During our interview, I glanced out the
2 window, and I saw flashing amber lights and a tow truck
3 plowing the driveway. So the driveway was plowed, and
4 the tow truck was -- excuse me. The plow truck was
5 plowing the driveway, not the tow truck. And the tow
6 truck was loading the vehicle onto the flatbed.

7 Q At any point in time when you were outside of
8 the residence, what, if any, observations did you make
9 as far as cameras or anything like that on the exterior
10 of the home?

11 A I did not see cameras on the exterior of the
12 home at that point in time.

13 Q Subsequent to that date, did you become aware
14 that there were exterior cameras that record on the
15 exterior of the home in Dighton?

16 A Subsequently, yes. We learned that there was
17 video recording of the residence and the driveway.

18 MR. LALLY: Your Honor, may I approach?

19 THE COURT: Yes.

20 BY MR. LALLY:

21 Q I'm showing you a disk. Do you recognize
22 that, sir?

23 A Yes.

24 Q What do you recognize that to be?

25 A I recognize it to be Dighton videos as it

1 relates to the location where the interview and the
2 vehicle was seized from.

3 Q And what's contained on that as far as the
4 video is concerned, is that a fair and accurate
5 portrayal of what you observed as far as the
6 defendant's vehicle being loaded onto a tow truck?

7 A Yes, it is.

8 MR. LALLY: May I approach again, Your Honor?

9 THE COURT: Yes.

10 MR. LALLY: The Commonwealth would seek to
11 introduce and admit as the next exhibit.

12 MR. JACKSON: No objection.

13 (Whereupon, disk with Dighton videos was entered
14 and marked Exhibit No. 444 in Evidence.)

15 THE COURT REPORTER: Exhibit 444 so marked.

16 THE COURT: Thank you.

17 MR. LALLY: And, Your Honor, with the Court's
18 permission, if I could publish those two short
19 clips for the jury?

20 THE COURT: Yes.

21 MR. LALLY: Ms. Gilman, if you click and pause
22 on and then on the video if you could --

23 THE COURT: Mr. Lally, you need to keep your
24 voice up.

25 MR. LALLY: Yes, Your Honor.

1 (Whereupon, the video is played.)

2 MR. LALLY: Would you pause right there,
3 please?

4 (Whereupon, the video is paused.)

5 BY MR. LALLY:

6 Q Now, Sergeant Bukhenik, from this particular
7 point of the video, do you recognize the vehicle that
8 has just pulled into the driveway?

9 A Yes, I do.

10 Q Is that the same driveway that you had walked
11 up from the street to the house in Dighton in that
12 morning?

13 A Yes, it is.

14 Q And, as far as the vehicle is concerned, what
15 do you recognize that vehicle to be?

16 A That would be the Lexus SUV owned by the
17 defendant bearing Massachusetts Registration 3GC 684.

18 MR. LALLY: Ms. Gilman, if you could press
19 play from there.

20 (Whereupon, the video is played.)

21 MR. LALLY: Ms. Gilman, if you could pause
22 right there.

23 (Whereupon, the video is paused.)

24 Q Two individuals just exited that vehicle; is
25 that correct, Sergeant?

1 A That's correct.

2 Q And do you recognize who those individuals are
3 as far as who they are and from what part of the
4 vehicle they exited from?

5 A Yes. The passenger side exit was the
6 defendant, and then the driver's side vehicle was
7 Mr. Read.

8 Q And that would be the defendant's father; is
9 that correct?

10 A That's correct.

11 MR. LALLY: And, Ms. Gilman, if you could play
12 this to the end, please.

13 (Whereupon, the video is played.)

14 Q Now, Sergeant, towards the end of that video,
15 did you observe the defendant and her father in any
16 specific area in relation to that vehicle?

17 A Yes. I observed the defendant and her father
18 at the rear right taillight, gesturing or signaling
19 towards the effected damaged and missing parts of the
20 taillight.

21 MR. JACKSON: Objection.

22 THE COURT: I'll allow just the direction that
23 they are signaling.

24 MR. JACKSON: Move to strike the remainder.

25 THE COURT: Okay.

1 BY MR. LALLY:

2 Q And, as far as that vehicle's position within
3 the driveway, is that essentially the position you
4 observed it in when Trooper Proctor and Officer Barros
5 were walking up the driveway to the home?

6 A Yes, it was.

7 MR. LALLY: Ms. Gilman, if I could have the
8 second of those two videos. If you could pause it
9 there, please.

10 (Whereupon, the video is played and paused.)

11 Q Again, Sergeant Bukhenik, if you could
12 describe to the jury what you observed of significance
13 within this particular video, please?

14 A This video captures the vehicle being moved
15 into position to be loaded up onto the flatbed for
16 transport from the scene.

17 MR. LALLY: Ms. Gilman, if you could play it
18 from there.

19 (Whereupon, the video is played.)

20 MR. LALLY: Pause right there.

21 THE COURT REPORTER: I'm sorry. I didn't hear
22 that.

23 MR. LALLY: I just asked her to pause right
24 there.

25 (Whereupon, the video is paused.)

1 THE COURT: You really have to keep your voice
2 us.

3 MR. LALLY: Yes, Your Honor.

4 BY MR. LALLY:

5 Q Sergeant Bukhenik, from this still image from
6 the video, what, if anything, of significance do you
7 observe in relation to the vehicle at this time as it's
8 being loaded onto the tow truck?

9 A The rear taillight is illuminated. You could
10 see a white light coming from that taillight.

11 Q And, if you could, using that laser pointer
12 you have before you, just direct the jury's attention
13 to the specific area you're talking about?

14 A Right there.

15 Q Thank you.

16 MR. LALLY: Ms. Gilman, if you could play
17 through to the end.

18 (Whereupon, the video is played.)

19 MR. LALLY: Ms. Gilman, you can take that
20 down.

21 Q Now, Sergeant Bukhenik, as far as when you
22 left the residence in Dighton, where is it that you
23 went?

24 THE COURT: Do you want to turn the lights on,
25 Mr. Lally?

1 MR. LALLY: Yes. My apologies.

2 THE WITNESS: Once we left the residence in
3 Dighton, we proceeded following the tow truck back
4 to the Canton Police Department.

5 BY MR. LALLY:

6 Q And was there anywhere else that either you or
7 the tow truck went between Dighton and the Canton
8 Police Department?

9 A No, sir.

10 Q And, when you say "we," it's yourself and
11 Trooper Proctor; is that correct?

12 A That's correct.

13 Q Now, once you arrived at the Canton Police
14 Department, where did the vehicle go?

15 A The vehicle was unloaded and put into a heated
16 sally port located at the Canton Police Department.

17 Q And, in reference to the Canton Police
18 Department and putting it in the sally port, why was it
19 that it was taken to that location?

20 A It's a location that serves as storage for a
21 vehicle that would suffice for the size of the vehicle.
22 The location as it related to the crime that took place
23 and was investigated was in that town. So we utilized
24 their facility. It was also a heated facility to help
25 melt the snow that had been accumulating on the

1 vehicle.

2 Q And, at some point -- well, as far as at some
3 point subsequent to this, did you learn that there are
4 exterior cameras at the Canton Police Department as
5 well as cameras within the sally port garage area?

6 A Yes, I do.

7 Q And have you reviewed each of those respective
8 cameras prior to your testimony here today?

9 A Yes, I have.

10 MR. LALLY: And may I approach, Your Honor?

11 THE COURT: Yes.

12 BY MR. LALLY:

13 Q Sergeant Bukhenik, I'd show you this disk.
14 I'd just ask you to look at that and look up when
15 you're finished.

16 A (Witness complies.)

17 Q Do you recognize that, sir?

18 A Yes, I do.

19 Q And what do you recognize that to be?

20 A The Canton Police Department driveway video.

21 Q And what's contained on that, is that a fair
22 and accurate portrayal of yourself and the tow truck
23 pulling into the Canton Police Department driveway on
24 that afternoon or early evening of January 29th?

25 A Yes, it is.

1 MR. LALLY: May I approach, Your Honor?

2 THE COURT: Yes.

3 MR. LALLY: The Commonwealth seeks to
4 introduce and admit as the next exhibit.

5 MR. JACKSON: May I have just a moment with
6 counsel?

7 THE COURT: Yes.

8 (Whereupon, there was a discussion off the record.)

9 MR. JACKSON: No objection.

10 (Whereupon, disk with Canton Police Department
11 videos was entered and marked Exhibit No. 445 in
12 Evidence.)

13 THE COURT REPORTER: Exhibit 445 in Evidence.

14 MR. LALLY: Your Honor, with the Court's
15 permission, may I publish that video to the jury at
16 this time?

17 THE COURT: Okay.

18 (Whereupon, the video is played.)

19 MR. LALLY: You can pause there, Ms. Gilman.

20 (Whereupon, the video is paused.)

21 BY MR. LALLY:

22 Q And just for reference points in regard to
23 this view of this camera, Sergeant, you're familiar
24 with the Canton Police Station?

25 A Yes, I am.

1 Q And so where is this camera viewed in relation
2 to the Canton Police Department and the sally port
3 garage where the vehicle eventually goes?

4 A This camera is capturing the driveway entrance
5 to the Canton Police Department. As viewed from
6 Washington Street, that driveway there is on the left
7 side of the structure. The camera, itself, is pointing
8 towards the entrance of the driveway to the Canton
9 Police Department. As you can see the brake light
10 illuminated in the shot, that is a Canton Police
11 cruiser sitting at the edge of the driveway, right by
12 Washington Street.

13 Q So for orientation purposes as far as the tow
14 truck and your vehicle, is that coming from the top of
15 the screen to the bottom or the bottom to the top?

16 A It's coming from the top left to the bottom
17 right of the screen towards the rear of the building
18 where the sally port is located.

19 Q Thank you.

20 MR. LALLY: Ms. Gilman, if you could?

21 (Whereupon, the video is played.)

22 MR. LALLY: If you would pause there,

23 Ms. Gilman.

24 (Whereupon, the video is paused.)

25 Q Now, as far as what's depicted in this still

1 shot on this video, Sergeant, what, if anything do you
2 observe there?

3 A That is the tow truck transporting the
4 defendant's vehicle, arriving at Canton P.D. My
5 vehicle with the trooper inside and me operating are
6 following closely behind as we did the entire way from
7 Dighton all the way to Canton.

8 MR. LALLY: Ms. Gilman, if you could play that
9 to the end?

10 (Whereupon, the video is played.)

11 Q Now, as far as the interior of the sally port
12 of the garage, you mentioned that that is a heated
13 area; is that correct?

14 A That's correct.

15 Q And, as far as the heat within that, do you
16 know how that is produced or how hot it gets in there
17 as far as the time that you spend within there?

18 A I do not know, but it was a standard garage
19 heating system that blows hot air. As far as
20 temperature, when the doors were open that day, it was
21 freezing cold. It was I believe like 18 degrees with,
22 you know, winds blowing. So inside the garage, inside
23 the sally port with the doors open, it was quite cold.
24 Once the doors shut, the temperature rose above
25 freezing and the snow began to melt off the vehicle.

1 Q And, from the arrival of that vehicle into the
2 sally port garage area, are you aware or have you
3 reviewed video in reference to that?

4 A Yes, I did.

5 MR. LALLY: Your Honor, may I approach?

6 THE COURT: Yes.

7 BY MR. LALLY:

8 Q Showing you another disk, sir, I'd just ask
9 you to review that and look up when you're finished.

10 A (Witness complies.)

11 Q And do you recognize that, sir?

12 A Yes, I do.

13 Q And does that contain the video that you were
14 just testifying about as far as the arrival of the
15 vehicle at the Canton Police Department sally port
16 garage?

17 A Yes, it is.

18 MR. LALLY: May I approach, Your Honor?

19 THE COURT: Yes.

20 MR. LALLY: The Commonwealth would seek to
21 introduce and admit as the next exhibit.

22 MR. JACKSON: No objection, Your Honor.

23 (Whereupon, disk with Canton Police Department
24 sally port video was entered and marked Exhibit
25 No. 446 in Evidence.)

1 BY MR. LALLY:

2 Q Now, Sergeant, before we get to that video, if
3 I could just ask, if you know, approximately what time
4 was it that you left Dighton, following that tow truck
5 back to the Canton Police Department?

6 A We left Dighton approximately 4:15, 4:20. And
7 we followed the vehicle back to Canton, arriving
8 probably around 5:30 or so, p.m.

9 Q Thank you, sir.

10 MR. LALLY: Your Honor, with the Court's
11 permission, if we could publish that video before
12 the jury?

13 THE COURT: Okay.

14 (Whereupon, the video is played.)

15 MR. LALLY: Ms. Gilman, if you could just
16 pause there for a moment.

17 (Whereupon, the video is paused.)

18 BY MR. LALLY:

19 Q I direct your attention now to the video up on
20 the screen. Just for orientation purposes again, first
21 of all, do you recognize what's depicted in this video?

22 A Yes, I do.

23 Q And what do you recognize it to be?

24 A That is the sally port two-bay garage at
25 Canton Police Department with the antique Canton

1 cruiser on the bottom of the screen and the open spot
2 for a vehicle in the middle of the screen with the
3 four-wheel drive all-terrain vehicle at the top.

4 Q Now, as far as, again, orientation purposes,
5 the driveway that the jury just witnessed in the prior
6 exhibit, is that to the left of the screen, the right
7 of the screen or something else, if you know?

8 A The driveway is to the right of the screen.

9 Q And this vehicle, the defendant's vehicle, was
10 sort of taken into the garage from the opposite side or
11 to the left of the screen; is that correct?

12 A Correct.

13 MR. LALLY: Ms. Gilman, if you could play it.

14 MR. JACKSON: Your Honor, may we approach
15 briefly?

16 THE COURT: Okay.

17 (Whereupon, there was a sidebar conference as
18 follows:)

19 MR. JACKSON: Your Honor, I don't know the
20 name of this file, but all of us just put our heads
21 together to try and figure what this video is. We
22 do not have this. I hesitate to say we don't have
23 this video. We have not seen this view of this
24 video. We do have sally port video. It's the one
25 from the opposite side.

1 MR. LALLY: This was separately provided at a
2 later date.

3 MR. JACKSON: When was this provided?

4 MR. LALLY: It was provided specifically after
5 Mr. Yannetti, during a pretrial hearing, had
6 mentioned that there was no video and it was
7 grainy. I don't have the exact notice of discovery
8 in front of me, but this was absolutely provided
9 well prior to trial. How long is it?

10 MR. LALLY: So it's motion activated. So it
11 skips over. I mean, I think it stands probably
12 about 20 minutes. But I think the entirety of the
13 video is probably about eight or nine minutes.

14 MR. JACKSON: It is eight or nine minutes.

15 MR. LALLY: I believe it's much shorter than
16 that. I think it's about five and a half minutes
17 or so.

18 THE COURT: All right. Typically, the jury
19 has asked for like a 3:14 afternoon break on days
20 we go to 4:30. I can give them a break now so you
21 can see it if you want.

22 MR. JACKSON: Yeah. I desperately need to see
23 it, or we can move past it and give them a break at
24 3:15 if there is another area that we can cover and
25 make it more --

1 THE COURT: I just feel bad where it's already
2 up there and --

3 MR. JACKSON: I do, too.

4 THE COURT: We'll take a five-minute -- we
5 will take a 10-minute break now.

6 MR. JACKSON: Okay. Thank you for that.

7 (Whereupon, the sidebar conference was paused.)

8 THE COURT: Jurors, ordinarily, we'd take a
9 short afternoon break on our long days in about a
10 half an hour but I think the better use of our time
11 is to give you a 10-minute break now and then we'll
12 go straight through until 4:00 o'clock. If anybody
13 needs a break at 3:15, just raise your hand.

14 (Whereupon, the jury is escorted from the courtroom
15 for a brief recess.)

16 (Whereupon, the sidebar conference continued.)

17 THE COURT: So I need you for just a minute.

18 MR. LALLY: Sure.

19 THE COURT: So I just asked Mr. McDermott to
20 print out the docket. Oh, that's for you. Take it
21 please. We will print out the docket to find out
22 whatever the hearing date was and when your notice
23 of discovery was.

24 MR. LALLY: It was right around April 23rd,
25 discovery notice, I believe --

1 MR. YANNETTI: Is that April 2023 or--

2 MR. LALLY: '24.

3 MR. YANNETTI: April 23rd of 2024?

4 MR. LALLY: Yes.

5 MR. JACKSON: So within the last two months.

6 MR. YANNETTI: After the start of trial.

7 THE COURT: All right. Why don't we watch it.

8 MR. LALLY: Sure.

9 (Whereupon, the sidebar conference concluded.)

10 MR. LALLY: Your Honor, may the witness leave
11 the stand just for a moment?

12 THE WITNESS: Thank you, Your Honor.

13 THE COURT: We'll see you back here in about
14 10 minutes.

15 THE COURT: So you want us to watch this now?

16 MR. JACKSON: If it please the Court, yes.
17 Your Honor, may I get just a little closer?

18 THE COURT: Sure. Can we turn out the lights?
19 (Whereupon, the video is played.)

20 THE COURT: Is that the end of it, Mr. Lally?

21 MR. LALLY: I believe so, yes.

22 THE COURT: Is that the end of it, Ms. Gilman?

23 MS. GILMAN: Yes.

24 THE COURT: All right. Lights on, please.
25 Thank you.

1 So I have a copy of the printed docket. On
2 4/24, Paper No. 347 is the Commonwealth's notice of
3 discovery XL. I just asked Mr. McDermott to print
4 it. We will need that. That was before we
5 impaneled. That was the day, I believe, with the
6 long motion in limine.

7 All right. So we'll take a five-minute break.
8 Okay?

9 MR. LALLY: Thank you, Your Honor.

10 (Whereupon, a brief recess is taken.)

11 (Court resumes.)

12 (Defendant present. Jury present.)

13 THE COURT: All right. So we are ready to
14 pick right up where we left off?

15 MR. JACKSON: We're ready. Thank you, Your
16 Honor.

17 THE COURT: So let's just be clear. The
18 objections are overruled, Mr. Jackson.

19 MR. JACKSON: Thank you.

20 THE COURT: All right, Sergeant. We are going
21 to start up again with the video.

22 THE WITNESS: Thank you.

23 MR. LALLY: And, Your Honor, for the record, I
24 believe we are picking up where it was paused,
25 which was 5:35:36.

1 THE COURT: Okay.

2 MR. LALLY: Thank you, Your Honor.

3 (Whereupon, the video is played.)

4 MR. LALLY: Ms. Gilman, if you could pause
5 right there.

6 (Whereupon, the video is paused.)

7 BY MR. LALLY:

8 Q And, Sergeant, as far as the condition of the
9 vehicle as you observe it in this sort of paused still
10 show of the video, is that a fair and accurate
11 portrayal of the condition as far as the snow or ice or
12 anything you observed on that vehicle when it came into
13 the sally port garage?

14 A Yes, it is.

15 MR. LALLY: Ms. Gilman, if you could play it
16 from there?

17 (Whereupon, the video is played.)

18 MR. LALLY: Ms. Gilman, if you could just
19 pause there for a moment as the sergeant is almost
20 falling in the vehicle.

21 (Whereupon, the video is paused.)

22 THE COURT REPORTER: I'm sorry. I didn't hear
23 that.

24 THE COURT: Keep your voice up.

25 MR. LALLY: Yes.

1 BY MR. LALLY:

2 Q Sergeant Bukhenik, with reference to any
3 individuals you see in this video, do you recognize any
4 of those individuals?

5 A I can recognize Trooper Proctor, myself.
6 Other than that, I don't remember exactly who else was
7 present at this moment in time.

8 Q Okay. If you could, sir, using the laser
9 pointer before you, just direct the jury's attention to
10 where you observed yourself and where you observed
11 Trooper Proctor.

12 A That's Trooper Proctor and myself.

13 Q At any point in time when you were present
14 with this vehicle in the sally port garage this evening
15 of January 29th, 2022, did either yourself or did you
16 observe Trooper Proctor touch or manipulate in any way
17 the right rear passenger side area of that vehicle?

18 A No, we did not.

19 MR. LALLY: Ms. Gilman, if you could play it
20 from here.

21 (Whereupon, the video is played.)

22 MR. LALLY: Ms. Gilman, if you could pause it
23 there for just one moment.

24 (Whereupon, the video is paused.)

25 Q Sergeant Bukhenik, what you're observing in

1 this video, what you've seen or what you recall from
2 this, what is it that you and Trooper Proctor and some
3 of the other officers are doing now?

4 A We are establishing a perimeter around the
5 vehicle with yellow tape in order to prevent or alert
6 and advise anyone in the area to stay away from the
7 vehicle.

8 MR. LALLY: Ms. Gilman, if you could just play
9 it until the end, please.

10 (Whereupon, the video is played.)

11 MR. LALLY: You can take that down and,
12 Mr. Officer, we can have the lights back on.

13 Q Sergeant Bukhenik, are you aware of a warrant
14 that was executed on that vehicle on February 1st of
15 2022?

16 A I am aware.

17 Q And you, yourself, were not present for that;
18 is that correct?

19 A I was not present for the execution. No, sir.

20 Q Trooper Proctor was as far as you are aware;
21 is that correct?

22 A That's correct.

23 Q Now, the next time that you were within the
24 Canton Police Department sally port garage with the
25 vehicle was on February 2nd; is that correct?

1 A That's correct.

2 Q And, on that day, where did the vehicle go
3 from the police station?

4 A From the Canton Police Station, I escorted the
5 vehicle to the Milton barracks for safekeeping.

6 Q And why was it taken from the Canton Police
7 Station on February 2nd to the Milton police barracks
8 or what had occurred in the intervening part between
9 January 29 and February 2nd?

10 A The Canton Police Department had recused
11 themselves from interviews and that portion of the
12 investigation. And, now that the vehicle had been
13 processed, we needed to free up the Canton sally port
14 so they can utilize that facility for transporting
15 prisoners to their facility and booking. So we stored
16 the now-processed vehicle back at the Milton barracks
17 in an unheated garage.

18 MR. LALLY: Your Honor, with the Court's
19 permission, if I could publish just a very brief
20 portion of what's been marked as Exhibit 34, which
21 is the Canton Police Department sally port's garage
22 camera?

23 THE COURT: Okay.

24 MR. LALLY: Ms. Gilman, what you have up
25 there, I'm sorry, February 2nd, 2022 at

1 approximately 8:09 a.m. And I'm just going to ask
2 you to play that through until about 8:10:26 or so.
3 (Whereupon, the video is played.)

4 MR. LALLY: Ms. Gilman, if you could pause
5 that briefly.

6 (Whereupon, the video is paused.)

7 BY MR. LALLY:

8 Q Sergeant, just for orientation purposes again,
9 this is another camera from within the same sally port
10 garage; is that correct?

11 A That's correct. It's the opposite view from
12 what we just viewed in the previous video.

13 Q And, as far as any of the people within this
14 video, do you recognize any of the individuals in
15 there?

16 A I believe that's myself and then another
17 officer. I don't know who that other officer is.

18 Q And, just again using the laser pointer,
19 direct the jury's attention to where you see yourself.

20 A (Indicating).

21 Q And, as far as the condition of the vehicle
22 from January 29th when you saw it on that day to
23 February 2nd when you saw it on that day, as far as the
24 exterior of the vehicle, what, if anything, was
25 different or what, if anything, did you note or

1 observe?

2 A I noted the taillight removed and the evidence
3 collected.

4 Q And, as far as the snow and caked-on ice that
5 you observed on that prior date, is that still present
6 on February 2nd?

7 A No. That had melted away.

8 MR. LALLY: And, Ms. Gilman, again, I'm sorry,
9 just play through that 8:10:26.

10 (Whereupon, the video is played.)

11 MR. LALLY: Thank you, Ms. Gilman. And you
12 can take that down. And, Mr. Officer, we can have
13 the lights back on. Thank you.

14 Q Now, Sergeant Bukhenik, with regard to
15 Mr. O'Keefe's house at One Meadows Avenue in Canton, at
16 some point did you become aware throughout the course
17 of your investigation that there were exterior cameras
18 affixed to that residence, as well?

19 A Yes, I did.

20 Q And those were Ring cameras; is that correct?

21 A That's correct.

22 Q Now, with respect to the investigation, what,
23 if any, steps were taken in order to secure any of that
24 footage from the exterior of the house from the Ring?

25 MR. JACKSON: Objection.

1 THE COURT: I'll allow it.

2 THE WITNESS: We applied for multiple search
3 warrants.

4 MR. JACKSON: Objection.

5 THE COURT: All right. I'll see you at
6 sidebar.

7 (Whereupon, there was a sidebar conference as
8 follows:)

9 THE COURT: What is the nature of the
10 objection?

11 MR. JACKSON: This witness -- foundation.
12 This witness did not write the search warrants.
13 This warrant did not analyze the videos. This
14 witness did not look at the videos. He has nothing
15 to do with those videos. Trooper Proctor did all
16 of that.

17 THE COURT: What do you say about that?

18 MR. LALLY: Sergeant Bukhenik has looked at
19 all of the videos. He supervises Trooper Proctor.
20 All I'm asking in reference to the search warrants
21 is he's aware these search warrants were obtained.
22 He's seen all the videos. He can testify as to how
23 they're kept and how he viewed them just as easily
24 as anybody else.

25 MR. JACKSON: No, he can't. I've seen the

1 videos, as well, Your Honor. That doesn't give me
2 the foundation to establish how they were
3 recovered. He has to call Trooper Proctor. I know
4 he doesn't want to but he's going to have to.

5 THE COURT: And I know you want him to. But
6 I'm just focusing on what's before me. So let's
7 lay a foundation.

8 MR. LALLY: Sure.

9 (Whereupon, the sidebar conference concluded.)

10 BY MR. LALLY:

11 Q And so, sir, during the course -- well, let me
12 ask you this: As far as this or any other
13 investigation is concerned, how is it that members of
14 your unit sort of work through an investigation or work
15 on a case?

16 A We --

17 MR. JACKSON: Objection, Your Honor.

18 THE COURT: No. I'm going to allow it.

19 THE WITNESS: As a case comes in, we address
20 each case on an individual basis based on the
21 evidence that is presented through testimony and
22 physical evidence that is recovered. That is what
23 guides our investigations, and we then develop
24 leads and process information collected.

25 Sometimes information needs to be collected

1 from third-party holders of data or service
2 providers, at which point to access that data, we
3 apply for search warrants, which --

4 MR. JACKSON: Objection.

5 THE COURT: So move on from that.

6 THE WITNESS: Thank you, Your Honor.

7 THE COURT: So you applied for search
8 warrants, but move on.

9 BY MR. LALLY:

10 Q So, Sergeant, my question is more geared
11 toward as far as individual personnel within your unit,
12 how is an investigation conducted as far as one trooper
13 does everything or is it a collaborative effort or how
14 is that done?

15 A The reason I say "we" is because every
16 investigation takes the entire unit typically to put an
17 effort in to conduct interviews, analyses and so forth.
18 So it is a team effort each and every time. No
19 investigation is a one-man show. That's why we call it
20 a case officer, not a lead investigator, because the
21 case officer organizes the individuals to assign
22 different tasks and collect and organize the data that
23 comes back from the third-party providers and from the
24 interviews that are conducted.

25 Q And, as far as the interviews that are

1 conducted through the course of this or any other
2 investigation, is there ever an interview that's
3 conducted just by one trooper or one person in any
4 investigation that you've done with this unit?

5 A No. We conduct interviews with two people
6 whether it's a trooper and a local detective or two
7 troopers assigned to our office, other state police
8 unit without the agency.

9 Q Now, as far as the case officer, who was the
10 case officer on this particular investigation?

11 A The case officer in this investigation was
12 Trooper Michael Proctor.

13 Q And Trooper Proctor works under your
14 supervision; is that correct?

15 A That's correct.

16 Q So as far as a search warrant for the Ring
17 video from One Meadows Avenue, who was it specifically
18 who sat down, put pen to paper and wrote the search
19 warrant?

20 A Trooper Proctor was the affiant.

21 Q And, as far as from that search warrant, are
22 you aware of the materials that were provided by Ring
23 in response to that search warrant?

24 MR. JACKSON: Objection.

25 THE COURT: I'm going to allow it.

1 THE WITNESS: I am aware of it.

2 BY MR. LALLY:

3 Q And have you reviewed both the material as
4 well as the videos that were provided by Ring in
5 response to that search warrant?

6 A I did.

7 Q Now, with reference to those videos,
8 specifically, did you observe -- if you know, with
9 respect to those videos, how were they sort of ordered
10 sequentially in the manner in which they were provided
11 as far as date, time, things of that nature?

12 MR. JACKSON: Objection.

13 THE COURT: Ask it differently, Mr. Lally.

14 MR. LALLY: Sure.

15 BY MR. LALLY:

16 Q So the videos that you received from Ring that
17 you've reviewed, correct?

18 A Yes, I did.

19 MR. JACKSON: Objection, Your Honor.

20 THE COURT: I will allow that. So he's
21 reviewed videos from Ring. Next question.

22 BY MR. LALLY:

23 Q What, if any, information did they contain as
24 far as date or time?

25 A The data provided back from Ring provided

1 videos. There was no date and time on the labeling of
2 the -- the identifier, unique identifier for each
3 video. But it was presented in a sequential order,
4 knowing that the last video presented from the provider
5 was the last video within the scope of our request and
6 the first one being the first in that timeline.

7 Q And the scope of your request, the scope of
8 the request of the warrant, what time frame are we
9 talking about?

10 MR. JACKSON: Objection.

11 THE COURT: I'll allow that.

12 THE WITNESS: The first warrant we requested
13 from January 24th at midnight through January 30th
14 at midnight.

15 BY MR. LALLY:

16 Q And, with respect to those videos that were
17 provided, you reviewed each of those; is that correct?

18 A That's correct.

19 MR. LALLY: And, Your Honor, with the Court's
20 permission, I would ask to publish certain of those
21 videos for the jury at this time.

22 THE COURT: So these are -- why don't we
23 approach sidebar.

24 (Whereupon, there was a sidebar conference as
25 follows:)

1 THE COURT: So are these already in evidence?

2 MR. LALLY: They are in Exhibit 6, yes.

3 MR. JACKSON: He has no foundation for these.
4 They are in Exhibit 6 because Trooper Proctor is
5 expected to testify. And, when the foundation for
6 them -- if they're going to be played for the jury
7 -- he wasn't the affiant. He didn't ask for them.
8 All he did was review them. Any one of the jurors
9 could review them. I could pick someone from the
10 audience to review them but they can't come into
11 court and establish the bona fides of the
12 foundation.

13 THE COURT: So it's in evidence and that's one
14 thing. There is some case law in Massachusetts on
15 acknowledging police officers working together.
16 It's not very helpful to defendants. So, yes, you
17 may play that.

18 MR. LALLY: Thank you.

19 MR. JACKSON: Objection.

20 THE COURT: Yes.
21 hereupon, the sidebar conference concluded.)

22 MR. LALLY: And, Ms. Gilman, if I could have
23 from what's been previously marked as Exhibit 6,
24 first Video 119, and if you could pause there,
25 Ms. Gilman.

1 (Whereupon, the video is played and paused.)

2 BY MR. LALLY:

3 Q Now, with reference to this particular Video
4 No. 119 in Exhibit 6, Sergeant, what, if anything, can
5 you tell the jury as far as the timing of this
6 particular video?

7 A Based on the appearance of the driveway, we
8 know that this recording took place prior to the
9 blizzard of January 29th.

10 Q And, as far as anything that you observed in
11 this video as far as vehicles or people within those
12 vehicles, what, if anything, did you observe within
13 this video?

14 A I observed Mr. O'Keefe's car parked in the
15 same location as he typically parked it. And then --

16 MR. JACKSON: Objection.

17 THE COURT: I'll strike the "as he typically."

18 THE WITNESS: And then a black SUV parked
19 perpendicularly to Mr. O'Keefe's vehicle adjacent
20 to the entryway to the garage.

21 MR. LALLY: Ms. Gilman, if you could press
22 "play" on that.

23 (Whereupon, the video is played.)

24 MR. LALLY: Ms. Gilman, if you could pause it.

25 (Whereupon, the video is paused.)

1 BY MR. LALLY:

2 Q At some point in the course of your viewing of
3 this video or the video surrounding it, were you able
4 to identify the operator of the vehicle, the black SUV?

5 A Yes. That is the defendant operating her
6 black in color SUV bearing Massachusetts Plate
7 3GC 684.

8 MR. LALLY: And, Ms. Gilman, if you could play
9 it from there.

10 (Whereupon, the video is played.)

11 Q Now, Sergeant Bukhenik, are you also aware
12 from your review of the Ring videos from One Meadows
13 Ave. of another video depicting the defendant leaving
14 the house sometime shortly after 5:00 a.m. on January
15 29th?

16 A Yes, I am.

17 MR. LALLY: And, Ms. Gilman, if I could, also
18 from Exhibit 6, ask for Video 153.

19 (Whereupon, the video is played.)

20 MR. LALLY: If you could just pause that for a
21 moment?

22 (Whereupon, the video is paused.)

23 Q Now, Sergeant, with reference to this video
24 and the one just previously from 119, where is
25 Mr. O'Keefe's vehicle parked in relation to this video

1 vis-a-vis the other videos?

2 A The vehicle is parked in the back corner of
3 the driveway along the fence in the same location as
4 it's parked in the previous video.

5 Q And, at some point, do you see the defendant's
6 vehicle back out of the garage in the same
7 directionality that it did in the prior video, 119?

8 A Yes, she did.

9 MR. LALLY: Ms. Gilman, if you could press
10 "play."

11 (Whereupon, the video is played.)

12 MR. LALLY: If you would pause that for a
13 second.

14 (Whereupon, the video is paused.)

15 Q Now, as far as the operator of that vehicle, are
16 you able to observe who that operator is within that
17 vehicle?

18 A I observed that vehicle being operated. I
19 cannot identify who that individual is from that shot
20 right there.

21 Q At any point in a shot from the video that you
22 observed, were you able to recognize the operator of
23 the vehicle?

24 A Not from that shot, no.

25 Q Now, with respect to the timing of this

1 vehicle, what time in the morning is this video, if you
2 know?

3 A The timing of this video is approximately 5:07
4 a.m., when the defendant left the home through the
5 garage via her vehicle.

6 MR. LALLY: Ms. Gilman, if you could play
7 through that?

8 (Whereupon, the video is played.)

9 MR. LALLY: If you could pause it right there.

10 (Whereupon, the video is paused.)

11 Q Now, from this particular paused portion of
12 the video, Sergeant, what, if anything, of significance
13 do you observe within the still shot of this portion of
14 the Video 153?

15 A The portion of this video in the still shot
16 presented identifies a missing/damaged rear right
17 taillight, exposing the white light coming from the
18 right side of that taillight.

19 Q And, if you could, using the laser pointer
20 before you, draw the jury's attention to what you're
21 talking about as far as that area of the defendant's
22 vehicle?

23 A (Witness complies.)

24 Q Now, earlier in that video, did you observe
25 the defendant's vehicle coming close to or coming into

1 contact with Mr. O'Keefe's vehicle?

2 A Yes, I did.

3 Q And, as far as Mr. O'Keefe's vehicle, at least
4 from this video, what, if any, damage did you observe
5 to Mr. O'Keefe's vehicle?

6 A No damage.

7 Q And, as far as the ground area around where
8 Mr. O'Keefe's vehicle is parked, specifically the rear
9 of that vehicle, what, if any, red pieces or anything
10 did you observe on the ground around Mr. O'Keefe's
11 vehicle?

12 A Nothing was observed.

13 MR. LALLY: Ms. Gilman, if you could press
14 "play."

15 (Whereupon, the video is played.)

16 MR. LALLY: And, Ms. Gilman, from Exhibit 6,
17 if I could have Video No. 165.

18 (Whereupon, the video is played.)

19 MR. LALLY: If you could pause it, please.

20 (Whereupon, the video is paused.)

21 Q And, Sergeant, have you reviewed this video,
22 as well?

23 A Yes, I have.

24 Q And when, time-wise, in relation to January
25 29th approximately is this video?

1 A It's approximately like 12:30 in the
2 afternoon.

3 Q And, as far as the vehicles in this foreground
4 area from this particular camera shot, do you know
5 whose vehicles those are?

6 A Yes. The vehicle in the top left corner is
7 Mr. O'Keefe's vehicle. The vehicle in the middle left
8 is the defendant's vehicle. And I do not know who the
9 other two vehicles are.

10 MR. LALLY: Ms. Gilman, if you could press
11 "play."

12 (Whereupon, the video is played.)

13 MR. LALLY: If you would pause there just for
14 a moment, Ms. Gilman.

15 Q And, Sergeant, from the two individuals
16 exiting from that vehicle, do you recognize who those
17 individuals are?

18 A Yes, I do.

19 Q And, if you could, just using the laser
20 pointer, direct the jury's attention to whom you
21 recognize and identify who that person is.

22 A That there is the defendant and that there is
23 Mr. Read.

24 Q Again, Mr. Read being the defendant's father;
25 is that correct?

1 A That's correct.

2 MR. LALLY: And, Ms. Gilman, if you could
3 press "play."

4 (Whereupon, the video is played.)

5 MR. LALLY: Thank you. Ms. Gilman, if you
6 could pull up Video 166 from this same Exhibit 6.

7 (Whereupon, the video is played.)

8 MR. LALLY: Ms. Gilman, if you could pause
9 there just for a moment.

10 (Whereupon, the video is paused.)

11 Q Sergeant, do you recognize the person that
12 just exited from that vehicle and behind the
13 defendant's vehicle?

14 A Yes, I do.

15 Q And who do you recognize that to be?

16 A It is the defendant's brother.

17 MR. LALLY: And, Ms. Gilman, if you could
18 press "play."

19 (Whereupon, the video is played.)

20 MR. LALLY: Thank you, Ms. Gilman. If I could
21 have from the same Exhibit 6 Video 171.

22 (Whereupon, the video is played.)

23 MR. LALLY: Thank you. All right, Ms. Gilman.
24 You can take that down and, Mr. Officer, we can
25 have the lights back on.

1 Q Sergeant, from your review of those videos, at
2 various points you observed the defendant's brother
3 cleaning off the defendant's car, correct?

4 A That's correct.

5 Q At any point in time, did you observe the
6 defendant's brother cleaning off the area of the right
7 rear passenger side's taillight of the defendant's car?

8 A I did not.

9 Q Now, Sergeant, turning your attention to
10 February 1st of 2022, yourself and a Trooper Connor
11 Keefe -- is that someone you're familiar with?

12 A I am.

13 Q And he works within your unit, as well?

14 A Yes, he does.

15 Q At some point, did you and Trooper Keefe on
16 that day go to the C.F. McCarthy's establishment?

17 A Yes, we did.

18 Q And what was the purpose of your visit to C.F.
19 McCarthy's on that day?

20 A The purpose of our visit was to retrieve
21 surveillance video during the target time in question
22 that we knew the victim and the defendant had visited
23 the establishment, also any transaction receipts that
24 we could collect from that location.

25 Q And were you able to retrieve both video as

1 well as transaction receipts from that establishment?

2 A We were.

3 MR. LALLY: I'm sorry. My apologies. Before
4 I get into that, may I approach the witness, Your
5 Honor?

6 THE COURT: Yes.

7 BY MR. LALLY:

8 Q Sergeant, I'm showing you a series of 14
9 photographs or still shots. If you could just look at
10 those and look up when you're finished.

11 A (Witness complies.)

12 Q And do you recognize those, sir?

13 A I do.

14 Q And what do you recognize those to be?

15 A I recognize these to be still photographs of
16 the Ring video that we just watched.

17 Q And that would be Video 153, the one with the
18 defendant backing out sometime after 5:00 a.m. on
19 January 29th?

20 A That's correct.

21 MR. LALLY: May I approach, Your Honor?

22 THE COURT: Yes.

23 MR. LALLY: The Commonwealth would seek to
24 introduce and admit as the next exhibit.

25 MR. JACKSON: No objection.

1 THE COURT: Thank you.

2 (Whereupon, photographs were entered and marked
3 Exhibits No. 447 through 460 in Evidence.)

4 THE COURT REPORTER: Exhibits 447 through 460,
5 Your Honor.

6 MR. LALLY: Your Honor, with the Court's
7 permission, may I publish just a couple of these
8 photographs for the jury?

9 THE COURT: You may.

10 MR. LALLY: Ms. Gilman, if I could have
11 Photograph No. 30.

12 BY MR. LALLY:

13 Q Sergeant, do you recognize what's up on the
14 screen now as Exhibit 456?

15 A I do.

16 MR. LALLY: Ms. Gilman, if you could just move
17 towards the rear of the vehicle.

18 I'm sorry. May I have a moment, Your Honor?

19 THE COURT: Yes.

20 BY MR. LALLY:

21 Q Sergeant, what's up on the screen now, if you
22 could direct the jury's attention with that laser
23 pointer to the area of the rear passenger side
24 taillight that you were describing damaged?

25 A (Witness complies.)

1 Q Thank you, sir.

2 MR. LALLY: Ms. Gilman, you can take that
3 down. Mr. Officer, if we can have the lights back
4 up? Thank you, sir.

5 BY MR. LALLY:

6 Q So, Sergeant Bukhenik, if I can take you,
7 again, I'm sorry, back on February 1st to C.F.
8 McCarthy's. You secured video and receipts from that
9 establishment on that day?

10 A That's correct.

11 Q And, as far as the video and receipts, were
12 you then able to subsequently review those at some
13 point?

14 A Yes, I was.

15 Q Now, first starting with respect to the
16 video --

17 MR. LALLY: Your Honor, may I approach?

18 THE COURT: Yes.

19 BY MR. LALLY:

20 Q I'm showing you two photographs or still
21 shots. I'd just ask you to look at those and look up
22 when you've finished.

23 A (Witness complies.)

24 Q And do you recognize those, sir?

25 A Yes, I do.

1 Q And what do you recognize those to be?

2 A Those are still shots of the C.F. McCarthy's
3 surveillance video that we collected from that
4 establishment from the dining room camera angle.

5 Q Thank you.

6 MR. LALLY: May I approach again, Your Honor?

7 THE COURT: Yes.

8 MR. LALLY: The Commonwealth would seek to
9 introduce and admit as the next two exhibits.

10 MR. JACKSON: No objection, Your Honor.

11 THE COURT: Okay.

12 (Whereupon, two photographs were entered and marked
13 Exhibits No. 461 and 462 in Evidence.)

14 MR. LALLY: And, Your Honor, with the Court's
15 permission, if I could ask that those be published
16 to the jury at this point?

17 THE COURT: You may.

18 BY MR. LALLY:

19 Q And, Sergeant Bukhenik, do you recognize
20 what's up on the screen?

21 A Yes, I do.

22 Q And, if you could, using the laser pointer,
23 draw the jury's attention to what, if anything, of
24 significance you observe in this still shot from the
25 C.F. McCarthy's video?

1 A We observed the victim, Mr. John O'Keefe,
2 here. He appears to be communicating with the
3 defendant here. Mr. Camerano is over here, as well.
4 Mr. Sullivan is down here, as well. Mr. O'Keefe is
5 wearing the gray light two-tone sweatshirt that I held
6 up earlier as well as the jeans (indicating).

7 MR. LALLY: And the next still shot,
8 Ms. Gilman, please.

9 Q Similar to this or similar to the previous
10 one, excuse me, Sergeant, do you recognize what's
11 depicted in this still shot here?

12 A Yes. It's, again, the victim on the other
13 side of the defendant, still dressed in the same outfit
14 and the defendant still standing in front of him.

15 Q And, as far as the bar area adjacent to the
16 defendant, what, if anything, of significance do you
17 note there?

18 A The bar area is located near the taps, the
19 draft beer taps, at C.F. McCarthy's. So if you were to
20 look at the bar from the street, that is the left side
21 of the bar orientation on the way to the restrooms.

22 Q And I'm sorry. I should have been more
23 specific. As far as the sort of shelf of the bar
24 immediately adjacent to the defendant's left arm, what,
25 if anything, do you observe there?

1 A Here, I observe a cylindrical vase-style
2 cocktail glass on the bar as well as other beer
3 bottles.

4 MR. LALLY: Ms. Gilman, you can take that
5 down.

6 With reference to the C.F. McCarthy's video,
7 Your Honor, with the Court's permission, I would
8 ask to publish certain portions of that. It's
9 already been marked as Exhibit 50.

10 THE COURT: Okay.

11 MR. LALLY: Ms. Gilman, if you could, from the
12 first video, and if I could ask you to pull it
13 up to about seven minutes and 50 seconds. And,
14 Ms. Gilman, if you could pause just for a moment, I
15 am just going to ask you to play it from 7:50 to
16 about eight minutes and 20 seconds in, but I may
17 ask you to pause it at some point.

18 (Whereupon, the video is played.)

19 MR. LALLY: Ms. Gilman, if you could pause
20 there.

21 BY MR. LALLY:

22 Q Sergeant, as far as, again, just for
23 orientation purposes with reference to the entrance and
24 exit, point of ingress and egress of this bar, do you
25 observe that somewhere in this video?

1 A Yes. At the top of the screen there is the
2 front door to C.F. McCarthy's bar. And, as we just
3 viewed, the two gentlemen walking in, they walked in
4 through the front door, heading to the taps area, the
5 draft beer location of the bar.

6 Q And, if you could, just using the laser
7 pointer, direct the jury's attention to that front door
8 area that you're talking about?

9 A The front door area is located right here
10 (indicating).

11 Q And, with respect to those two individuals
12 that came in, do you recognize those two individuals?

13 A Yes. That is the victim, Mr. John O'Keefe,
14 dressed in the same outfit as before, and Mr. Camerano.

15 MR. LALLY: Ms. Gilman, if you could play that
16 until about 8:20.

17 (Whereupon, the video is played.)

18 MR. LALLY: Thank you.

19 (Whereupon, the video is paused.)

20 MR. LALLY: And, Ms. Gilman, if I could ask
21 you from the same exhibit, the same Exhibit 50,
22 from the third video now, and if I could ask you to
23 go to about six minutes and 10 seconds in. And I
24 am going to ask you to play that until about six
25 minutes and 43 seconds.

1 (Whereupon, the video is played.)

2 MR. LALLY: If I could ask you to pause for
3 just a second.

4 (Whereupon, the video is paused.)

5 Q As far as the individuals around Mr. O'Keefe
6 and Mr. Camerano, do you observe or recognize anybody
7 else in the bar area around them at this time?

8 A Mr. O'Keefe is sitting next to Mr. Camerano.
9 I believe Mr. Kurt Roberts is there, as well, next to
10 Mr. Camerano.

11 Q Now, from this time, we are at about 8:51 p.m.
12 or so within the video; is that correct?

13 A That's correct.

14 Q Now, as far as the timestamp on this video,
15 what, if any, information were you provided when you
16 retrieved this video on February 1st in relation to
17 that time and its accuracy to sort of what time was?

18 A During a video surveillance extraction, we
19 verify the time and date on the system, and that is to
20 show us how far behind in the past or in the future --
21 sometimes devices are timestamped in the future. It
22 hasn't happened yet in realtime, but the video is
23 stamped.

24 So what we do is prior to extracting the
25 video, we identify the difference in time between real

1 time and video time. In this case, C.F. McCarthy's
2 video was 12 minutes behind realtime.

3 MR. LALLY: And, Ms. Gilman, if you could play
4 this until about six minutes and 43 seconds.

5 (Whereupon, the video is played.)

6 MR. LALLY: If you could pause there briefly,
7 Ms. Gilman.

8 Q As far as anyone else within the area of the
9 bar in the area of Mr. O'Keefe, Mr. Camerano and
10 Mr. Roberts, who, if anyone, else do you recognize in
11 that area at this point?

12 A I recognize the defendant walking in and
13 interacting with the victim, Mr. John O'Keefe.

14 MR. LALLY: Ms. Gilman, if you could? Now,
15 Ms. Gilman, if you could within that same Video 3,
16 I would ask you to go to about 13 minutes and 15
17 seconds. I am going to ask you to play from here
18 to about 14 minutes and 45 seconds.

19 (Whereupon, the video is played.)

20 MR. LALLY: Pause there.

21 (Whereupon, the video is paused.)

22 Q Now, from your view of this video, what, if
23 anything, of significance do you observe in this part
24 of the video?

25 A In this part of the video, I observe the

1 defendant reaching over and retrieving a cylindrical
2 tall cocktail glass from the bartender.

3 Q Again, given the understanding that the video
4 is about 12 minutes off as far as the timestamp, the
5 defendant entered about 8:51 p.m. and is receiving this
6 drink about 8:58 p.m.; is that correct?

7 A That's correct.

8 MR. LALLY: And, if you could, Ms. Gilman,
9 play that.

10 (Whereupon, the video is played.)

11 MR. LALLY: Thank you, Ms. Gilman. Now,
12 Ms. Gilman, if you could go up to about 32 minutes
13 even in to the same video. I am going to ask you
14 to play that for the next 30 seconds or so until
15 about 32 minutes and 30 seconds.

16 (Whereupon, the video is played and paused.)

17 Q And, sergeant, during about that 30 seconds or
18 so, what, if anything, of significance did you observe
19 the defendant to receive at that point?

20 A A cylindrical cocktail glass.

21 Q And so that would be the second drink; is that
22 correct?

23 A That's correct.

24 Q And that's at approximately 9:15; is that
25 correct?

1 A That's correct.

2 MR. LALLY: And, Ms. Gilman, if you could go
3 forward to about 37 minutes into this same video
4 and if you could play that for about the next
5 minute or so until about 38.

6 (Whereupon, the video is played and paused.)

7 Q Now, Sergeant, again, from about that one-
8 minute portion from that video, what, if anything, of
9 significance did you observe the defendant receive and
10 do with any items?

11 A She received a shot glass beverage and poured
12 it into the tall cylindrical cocktail glass. And then
13 Mr. John O'Keefe stirred it for her.

14 Q So that would now be the third drink; correct?

15 A That is correct.

16 Q And that's about 9:20 p.m.; is that correct?

17 A That's correct.

18 MR. LALLY: Ms. Gilman, if I could direct you
19 to the fourth video, Video No. 4, and ask you to go
20 about 50 seconds into, 5-0, into this video. And
21 I'm going to ask you to play this, Ms. Gilman, from
22 50 seconds to about 1:30.

23 (Whereupon, the video is played.)

24 Thank you, Ms. Gilman.

25 (Whereupon, the video is paused.)

1 Q So, Sergeant, from this particular video,
2 what, if anything, of significance did you observe the
3 defendant receiving during this time frame?

4 A She receives another shot glass beverage and
5 then places that liquid into her tall cocktail glass
6 and stacks the second shot glass into the first shot
7 glass into the first tall cylindrical cocktail glass
8 she had previously received and consumed.

9 Q So this would now be the fourth drink; is that
10 correct?

11 A That's correct.

12 Q And, per the video, that's about 9:33 p.m.; is
13 that correct?

14 A That is correct.

15 MR. LALLY: Ms. Gilman, within this same video
16 if I could ask you to go to about 26 minutes and 30
17 seconds. Ms. Gilman, if you could pause there for
18 just a moment. I am going to ask you to play this
19 until about 27:40.

20 (Whereupon, the video is played.)

21 MR. LALLY: Thank you, Ms. Gilman.

22 (Whereupon, the video is paused.)

23 Q During that period, sergeant, what, if
24 anything, of significance did you observe the defendant
25 to receive during that time frame?

1 A She received a tall cylindrical cocktail
2 glass.

3 Q And, in addition to that, what, if anything,
4 else did she receive from the bartender during that
5 time?

6 A A shot-glass-size beverage.

7 Q And what, if anything, did she do with the
8 shot glass in regard to the larger cylindrical glass?

9 A It was placed inside the tall cylindrical
10 cocktail.

11 Q So that would be drinks five and six; is that
12 correct?

13 A That is correct.

14 Q And per the timestamp on the bar video, this
15 is now about 9:57 p.m.; is that correct?

16 A That is correct.

17 MR. LALLY: Ms. Gilman, if I could direct you
18 to Video No. 5 and if I could ask you to go to
19 about three minutes in and ask you to play that
20 until about 3:30 or so.

21 (Whereupon, the video is played.)

22 MR. LALLY: Thank you, Ms. Gilman.

23 (Whereupon, the video is played.)

24 MR. LALLY: And if I could ask you to go to
25 about 10 minutes and 30 seconds in. I would ask

1 you to play that for about a minute until about
2 11:30 or so.

3 (Whereupon, the video is played and paused.)

4 MR. LALLY: Thank you, Ms. Gilman.

5 Q So, Sergeant, sort of rounder shots during
6 this portion of the video; is that correct?

7 MR. JACKSON: Objection.

8 THE COURT: Sustained.

9 BY MR. LALLY:

10 Q What, if anything, of significance did you
11 observe the defendant and/or the group that she was
12 with do in this portion of the video?

13 A In this portion of the video, the two
14 gentlemen to the right of the defendant consumed a
15 shot-size beverage.

16 Q And, as far as the shot glass that the
17 defendant received, what, if anything, did you observe
18 her to do with that?

19 MR. JACKSON: Objection.

20 THE COURT: I'll allow it. Strike that. Just
21 what did you observe.

22 MR. LALLY: Sure.

23 BY MR. LALLY:

24 Q What did you observe the defendant to do
25 during that period of the video?

1 A Prior to the shots being taken, a shot glass
2 was poured into the cylindrical tall glass.

3 Q And, again, so that would be drink number
4 seven at that point?

5 A That would be drink number six.

6 Q I'm sorry. So the previous portion was a
7 cylindrical drink and then and then a shot glass? That
8 was five and six; is that correct?

9 MR. JACKSON: Objection.

10 THE COURT: I think that was the testimony,
11 but ask it differently.

12 MR. LALLY: Sure.

13 BY MR. LALLY:

14 Q As far as that drink during that portion, is
15 that drink number six or drink number seven, if you
16 know?

17 MR. JACKSON: Objection.

18 THE COURT: In that form, I'll sustain it.

19 BY MR. LALLY:

20 Q At this point in time in the video after
21 watching what you watched, how many drinks has the
22 defendant consumed at this point?

23 A At this point, she's consumed or is in
24 possession of --

25 MR. JACKSON: Objection.

1 THE COURT: I'll allow it.

2 THE WITNESS: -- six drinks.

3 BY MR. LALLY:

4 Q And this is at approximately 10:29 p.m.; is
5 that correct?

6 A Yes. That's correct.

7 Q Ms. Gilman, if you could go to about 20
8 minutes and 30 seconds in. I'd ask you to play for the
9 next 10 or 20 seconds or so.

10 (Whereupon, the video is played and paused.)

11 Q Sergeant, during that portion of the video,
12 what, if anything, did you observe as to the drink the
13 defendant has and how full it is at that point.

14 A She has a cylindrical tall cocktail glass in
15 her hand.

16 Q And can you observe or did you observe how
17 full that glass was?

18 A Drink number six is empty or near the bottom,
19 almost empty.

20 MR. LALLY: And, Ms. Gilman, if I could ask
21 you to go to about 22:40 or so for the timestamp,
22 please.

23 (Whereupon, the video is played and paused.)

24 Q Now, from this portion of the video, Sergeant,
25 what, if anything do you observe the defendant and

1 Mr. O'Keefe doing in reference to C.F. McCarthy's?

2 A Once the defendant got drink number seven, the
3 defendant and Mr. O'Keefe walked out of C.F.
4 McCarthy's, the defendant holding the beverage, tall
5 cylindrical glass, in her hand.

6 MR. LALLY: Your Honor, may I approach?

7 THE COURT: Yes.

8 MR. LALLY: Ms. Gilman, you can take that
9 down.

10 BY MR. LALLY:

11 Q Sir, I'm showing you a five-page document and
12 ask you to review that document and look up when you're
13 finished.

14 A (Witness complies.)

15 Q And do you recognize that document, sir?

16 A Yes, I do.

17 Q And what do you recognize it to be?

18 A I recognize it to be a series of transaction
19 receipts from the tabs at C.F. McCarthy's.

20 Q And are these the transaction receipts or the
21 tabs that you and Trooper Keefe received from C.F.
22 McCarthy's on February 1st, 2022?

23 A Yes, they are.

24 Q And, with reference to those receipts or tabs,
25 to whom, if anyone, of significance do those tabs

1 pertain to?

2 A The first one for 52.80 was opened under the
3 bar tab Karen A. Read.

4 Q And is there also a receipt for John O'Keefe?

5 A Yes, it is, the transaction through the credit
6 card being a Mastercard for 52.80 was paid by Mr.
7 John J. O'Keefe.

8 Q With reference to the items listed within that
9 particular receipt, what, if any, items of significance
10 do you observe listed on the receipts?

11 A Under Karen A. Read's receipt, one Tito's,
12 \$10; one Tito's, \$10; one Coors Light, \$5 --

13 MR. JACKSON: Objection, Your Honor.

14 THE COURT: Sustained.

15 MR. LALLY: May I approach, Your Honor?

16 THE COURT: Yes.

17 MR. LALLY: The Commonwealth would seek to
18 introduce and admit as the next exhibit.

19 MR. JACKSON: We probably should approach
20 briefly.

21 (Whereupon, there was a sidebar conference as
22 follows:)

23 THE COURT: What is your objection?

24 MR. JACKSON: I just don't want to sound like
25 a complete idiot in front of everybody. I thought

1 these were already presented --

2 MR. LALLY: The Waterfall.

3 THE COURT: The Waterfall. I've been waiting
4 for these ones.

5 MR. JACKSON: I knew I was going to sound like
6 an idiot. My main objection is there is no
7 foundation for these. They could have been done in
8 a handoff. He asked for them. He received them.
9 But he doesn't know --

10 THE COURT: Which is why I thought we went
11 through that whole video.

12 MR. JACKSON: No. I thought -- he can't say
13 that she was drinking Tito's. I don't know that
14 she was drinking Tito's. Maybe.

15 THE COURT: What do you say, Mr. Lally?

16 MR. LALLY: She, in her interview with this
17 sergeant, indicated that she was drinking vodka and
18 soda.

19 MR. JACKSON: I'm not even arguing that. I'm
20 trying to establish that if this is going to come
21 in, it needs to come in through a custodian of
22 record, not through the officer. He is not the
23 custodian.

24 THE COURT: But the video came in. So in
25 connection with the video, I'm going to let this

1 in.

2 MR. JACKSON: Okay.

3 THE COURT: Your objection is noted.

4 MR. JACKSON: Okay.

5 (Whereupon, the sidebar conference concluded.)

6 THE COURT: That may be marked.

7 (Whereupon, C.F. McCarthy's receipts were entered
8 and marked Exhibit 463 in Evidence.)

9 THE COURT REPORTER: Exhibit 463.

10 BY MR. LALLY:

11 Q Sergeant Bukhenik, on those receipts of
12 C.F. McCarthy's under both Ms. Read's receipt and
13 Mr. O'Keefe's receipt, there was Tito's vodka listed on
14 the receipt, correct?

15 A Correct.

16 Q Now, also on February 1st, what, if any, other
17 establishments did you go to in the town of Canton?

18 A Myself and Trooper Keefe went up the street to
19 the Waterfall Bar & Grille and retrieved transaction
20 receipts and video from there.

21 Q And, as far as the video is concerned from
22 that establishment, have you reviewed that video, as
23 well?

24 A Yes, I did.

25 Q With regard to the receipts from that

1 establishment, you reviewed those, as well; is that
2 correct?

3 A That's correct.

4 MR. LALLY: Your Honor, may I approach?

5 THE COURT: Yes.

6 BY MR. LALLY:

7 Q I am showing you four photographs or still
8 shots. If you could review those and look up when
9 you're finished.

10 A (Witness complies.)

11 Q And do you recognize those, sir?

12 A Yes, I do.

13 Q And what do you recognize those to be?

14 A Those are still shots from the surveillance
15 video from the Waterfall Bar & Grille on the night of
16 January 29th after midnight and Mr. O'Keefe is depicted
17 in the still shot.

18 Q And those are both interior as well as
19 exterior camera shots of Mr. O'Keefe's sort of exit
20 from the Waterfall; is that correct?

21 A That's correct. Interior of him leaving at
22 12:11 a.m., which the timestamp on the surveillance
23 video was accurate to realtime. He is holding a
24 beverage, shorter cocktail glass in his right hand as
25 he exits the establishment. He is seen on the exterior

1 camera walking towards Washington Street.

2 Q Thank you.

3 MR. LALLY: May I approach, Your Honor?

4 THE COURT: Yes.

5 MR. LALLY: The Commonwealth would seek to
6 introduce and admit as the next four exhibits.

7 MR. JACKSON: No objection.

8 THE COURT: Okay.

9 (Whereupon, photographs were entered and marked
10 Exhibits No. 464 through 467 in Evidence.)

11 THE COURT REPORTER: Exhibits 464 through 467,
12 Your Honor.

13 THE COURT: Thank you.

14 MR. LALLY: Your Honor, with the Court's
15 permission, if I could ask that these be published
16 for the jury?

17 THE COURT: Yes.

18 MR. LALLY: And, Ms. Gilman, if I could just
19 have the first one. My apologies. Ms. Gilman, if
20 I could have the first one. Thank you.

21 BY MR. LALLY:

22 Q And, Sergeant, do you recognize what's up on
23 the screen which has now been marked as Exhibit 464?

24 A I do.

25 Q What do you recognize that to be?

1 A That is the still shots presented to me and
2 entered into the exhibit of Mr. O'Keefe walking out of
3 the Waterfall Bar & Grille at 12:11 a.m. on the night
4 of, the early morning hours of January 29th, holding a
5 cocktail glass.

6 MR. LALLY: And if I could have the second
7 still, Ms. Gilman.

8 Q And, again, do you recognize what's up on the
9 screen, sir?

10 A Yes, sir.

11 Q And, if you could, using the laser pointer
12 before you, direct the jury's attention to where you
13 observed Mr. O'Keefe and what, if anything, you
14 observed Mr. O'Keefe holding as he exits the Waterfall?

15 A Mr. O'Keefe is observed here. He is holding
16 that shorter, fatter cocktail glass as he's walking out
17 of the establishment (indicating).

18 MR. LALLY: And, Ms. Gilman, if I could have
19 the exterior, just the second one, please.

20 Q And, again, Sergeant, do you recognize what's
21 up on the screen, which is now marked as Exhibit 467?

22 A Yes, I do.

23 Q And, if you could, using the laser pointer,
24 direct the jury's attention to what, if anything, of
25 significance you observed on this still?

1 A This is Mr. O'Keefe walking out of the
2 Waterfall establishment, holding the cocktail glass in
3 his right hand as he walks towards Washington Street.

4 MR. LALLY: Ms. Gilman, you can take that
5 down. Mr. Officer, if we can have the lights.
6 Thank you, sir.

7 Your Honor, may I approach the witness?

8 THE COURT: Yes.

9 BY MR. LALLY:

10 Q Sir, I'm showing you what's been previously
11 marked as Exhibit 54. I would just ask you to look at
12 that and look up if you could.

13 A (Witness complies.)

14 Q And do you recognize what's contained in
15 Exhibit 54?

16 A I do recognize. Yes.

17 Q And are those the receipts that you received
18 from the Waterfall when you went there on February 1st?

19 A Yes, they are.

20 Q Thank you.

21 MR. LALLY: May I approach again, Your Honor,
22 just to retrieve?

23 THE COURT: Yes.

24 BY MR. LALLY:

25 Q Now, sir, with reference to the Waterfall in

1 regard to the timestamp on that surveillance video,
2 what, if anything, were you told as far as the accuracy
3 of that timestamp when you retrieved that?

4 A That video was confirmed to be accurate in
5 time as in realtime, no discrepancy.

6 MR. LALLY: And, Your Honor, with the Court's
7 permission, if I could just publish three quick
8 clips from what's been marked as Exhibits 53?

9 THE COURT: Okay.

10 MR. LALLY: Ms. Gilman, if I could ask from
11 Channel 3, the second video down. If I could ask
12 you to go from the timestamp on the top of the
13 screen to 10:54:25.

14 (Whereupon, the video is played.)

15 MR. LALLY: If I could ask you to pause right
16 there.

17 (Whereupon, the video is paused.)

18 BY MR. LALLY:

19 Q So, Sergeant, from that particular portion of
20 the video, what, if anything, of significance did you
21 observe?

22 A That portion of the video depicts Mr.
23 John O'Keefe walking in with the defendant, the
24 defendant gesturing to a group of people at the top of
25 the screen and then Mr. O'Keefe walking over and giving

1 a hug to an individual that is part of the group.

2 MR. LALLY: So from the same Channel 3,
3 Ms. Gilman, if I could have the fourth video down.
4 If I could ask you to go to 11:39:40 and you can
5 pause there.

6 (Whereupon, the video is paused. And, in about
7 five to 10 seconds or so, I am going to ask,
8 Ms. Gilman, if you could pause it.

9 Q And I'm going to ask, Sergeant, if you could
10 direct your attention to sort of the top right corner
11 of the screen.

12 (Whereupon, the video is played.)

13 MR. LALLY: Thank you, Ms. Gilman. If you
14 could pause there.

15 (Whereupon, the video is paused.)

16 Q From that portion of the video, do you observe
17 the defendant in that portion of the video?

18 A Yes, I did.

19 Q And what, if anything, did you observe her to
20 be doing?

21 A She retrieves a drink from the table and
22 appears to consume it.

23 Q Now, as far as the drink in the tall
24 cylindrical glass that you observed her walking out of
25 C.F. McCarthy's with, what, if anything, do you observe

1 from the glass that she is taking a sip of from this
2 portion of the video of the Waterfall?

3 A It's a shorter, fatter style glass compared to
4 the cylindrical tall style that she walked out of C.F.
5 McCarthy's with.

6 Q Thank you, sir.

7 MR. LALLY: Ms. Gilman, you can take that down
8 and, Mr. Officer, if we could have the lights.
9 Thank you, sir.

10 THE COURT: Mr. Lally, why don't we end for
11 the day. It's been a long day. All right.

12 Sergeant Bukhenik, we'll need you back
13 tomorrow. I'll ask you to just follow the jurors
14 out when they leave.

15 So, jurors, those same reminders. Please do
16 not discuss this case with anyone. Don't do any
17 independent research or investigation into the
18 case. If you happen to see, hear or read anything
19 about the case, please disregard it and let us
20 know. We will see you tomorrow morning.

21 (Whereupon, the jury is escorted from the courtroom
22 and excused for the day.)

23 THE COURT: I will see counsel at sidebar
24 about scheduling, please. Mr. Lally, come to
25 sidebar, please.

1 (Whereupon, there was a sidebar conference as
2 follows:)

3 THE COURT: All right. --

4 MR. LALLY: My apologies.

5 THE COURT: That's okay. How much longer do
6 you have with him?

7 MR. LALLY: I'd say about 45 minutes or so.

8 THE COURT: Okay. How long do you think you
9 will finish tomorrow? It's only until noon. I'm
10 not rushing you. I'm just curious.

11 MR. JACKSON: No. I understand. I guess
12 that's a little bit of an unknown because I was
13 going to bring this up, and now is as good a time
14 as any. If the Commonwealth is not going to call
15 Trooper Proctor, and a lot of this information is
16 coming out through Trooper Bukhenik, I expect it to
17 come out through Trooper Proctor. If that's not
18 the case, that changes my entire cross-examination
19 of Trooper Bukhenik.

20 THE COURT: Okay.

21 MR. JACKSON: So I sort of need some clarity.
22 I mean, I've asked the Commonwealth several times.
23 And it shouldn't be -- I don't want to get ambushed
24 and I don't want to have to adjust on the fly. I
25 should have the opportunity, a reasonable

1 opportunity, to deal with the lead case officer who
2 is going to testify in this case in an appropriate
3 way because there is so much that rides on that.

4 So all I'm asking is if Proctor is not going
5 to testify in the Commonwealth's case, then that
6 changes the way I cross-examine Trooper Bukhenik
7 significantly. If Trooper Proctor is expected to
8 testify, my cross of this officer is probably an
9 hour, maybe less. If it's not, then there is a lot
10 of ground to cover. I could be four hours.

11 THE COURT: Okay. So I don't care how long
12 you take. You can take days. You know as well as
13 I do the ambush is if you're not told a witness is
14 going to testify. Right?

15 MR. JACKSON: I understand.

16 THE COURT: It's what defense counsel does.
17 You're preparing one way or the other. I'm not
18 asking the Commonwealth whether they are calling
19 him or not. I mean, he's on the witness list.
20 This is a big deal, right?

21 MR. JACKSON: It's a big deal. Yes.

22 THE COURT: So if it were me I'd prepare for
23 both and see how it goes.

24 MR. JACKSON: Okay. Fair enough.

25 THE COURT: I'm just saying. So I don't care

1 how long you take. If you don't know, you don't
2 know. That's fine. [REDACTED]

3 Court Order: Jurors or Juror Issues
4 [REDACTED]
5 [REDACTED]

6 MR. JACKSON: Of June?

7 THE COURT: Of June.

8 MR. JACKSON: Oh, wow. Okay.

9 THE COURT: Okay? Court Order: Jurors or Juror Issues
10 [REDACTED]

11 MR. JACKSON: Okay.

12 MR. LALLY: My expectation just as far as --
13 and, obviously, this could change. But my current
14 expectation is I should be able to rest the case in
15 chief on either the 17th or the 18th.

16 THE COURT: Okay. And the 19th is a federal
17 holiday.

18 MR. JACKSON: Oh, it is?

19 THE COURT: It's Juneteenth.

20 MR. LALLY: Juneteenth.

21 MR. YANNETTI: I had in my calendar that there
22 was a potential off day on June 11th, which was
23 Tuesday coming up.

24 THE COURT: Oh, is there? I was told that the
25 Commonwealth --

1 MR. LALLY: I believe there is.

2 THE COURT: -- needs -- something personal to
3 you? You need a day off?

4 MR. LALLY: Yes, Your Honor.

5 THE COURT: Okay.

6 MR. YANNETTI: We are off Tuesday, then.

7 THE COURT: Yes. We'll be off Tuesday. I
8 have not told the jury that yet.

9 MR. YANNETTI: Right.

10 THE COURT: I'll tell them tomorrow.

11 MR. YANNETTI: Just while we are on
12 scheduling, Your Honor, I mean, we have gotten the
13 head's up regarding the order of witnesses. After
14 Trooper Bukhenik, there are two minor quick
15 witnesses and Trooper Paul. And then we don't know
16 anybody after that.

17 THE COURT: Well, it sounds like you may not
18 get past Trooper Bukhenik tomorrow.

19 MR. JACKSON: Maybe not. But we have almost a
20 full week next week and we'd like a head's up as to
21 who is coming after that.

22 THE COURT: Okay. So you'll provide that
23 tomorrow, Mr. Lally?

24 MR. LALLY: Yes, Your Honor.

25 THE COURT: All right. So the 11th. I will

1 tell the jurors tomorrow that we won't be in
2 session. Okay. And it was the 26th. [REDACTED]

3 Court Order: Jurors or Juror Issues
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]

7 would be we'd go from 12:00 straight through to
8 4:00 with a short afternoon break.

9 MR. LALLY: Sure.

10 THE COURT: Court Order: Jurors or Juror Issues
11 [REDACTED]
12 [REDACTED]

13 MR. YANNETTI: Right. Okay.

14 MR. JACKSON: Given what Mr. Lally has just
15 graciously told us about when he expects to wrap
16 this case, that means our witnesses are going to be
17 obviously propped up. I want to make sure that
18 there is absolutely no delay. I'm not sure if this
19 is a court question or if it's a Mr. McDermott
20 question. I don't really know logistically how to
21 set our witnesses in in the building. In other
22 words, if I have five witnesses, I don't know where
23 they go. I don't have an anteroom for them. I'd
24 like just a little clarification so I can start
25 preparing.

1 THE COURT: Okay. It's something we'll talk
2 about. I have to talk with security about it.

3 MR. JACKSON: Okay. I just wanted to put it
4 on the radar.

5 THE COURT: All right. So June 21st, that's a
6 definite, right? Did you find out if it's more
7 than a day or a full day? June 21st I have a
8 sentencing that involves -- it's post-Mathis, a
9 very serious case that was tried here twice in the
10 last year. I expect that will be all day on the
11 21st. That's problematic.

12 MR. LALLY: I could be wrong on this, but I
13 believe the Court had already told the jury or at
14 least told us that the 11th was off and the 21st
15 was off.

16 THE COURT: I never said the 11th was off. I
17 may have said the 21st was off.

18 MR. LALLY: At least the 21st. I have it
19 written down.

20 THE COURT: Okay. I'll check. Did I tell you
21 the 21st?

22 MR. YANNETTI: I didn't have that in my
23 calendar.

24 MR. JACKSON: I didn't either.

25 MR. YANNETTI: I had the 11th as a possible

1 date.

2 THE COURT: I'll check, because I know I sent
3 it to security. So I'll check with them.

4 THE CLERK: Also, on the 13th, Thursday, the
5 18th, we are going a full day.

6 THE COURT: The 8th. Every day is a full day
7 from here on in unless we are told otherwise.

8 MR. JACKSON: Okay. Good.

9 THE COURT: I think we said that to the jury
10 last week.

11 THE CLERK: Judge, I'm sorry. The 13th.

12 THE COURT: Yes. Yes. Next Thursday will be
13 a full day.

14 MR. LALLY: That's actually very helpful
15 because I think at that point we'll be with
16 witnesses coming from out of state. So the more
17 stretched out we can get --

18 MR. YANNETTI: Next week we have four full
19 days, then.

20 THE COURT: Yes.

21 MR. YANNETTI: Right?

22 THE COURT: Yes.

23 MR. YANNETTI: And the week after, four full
24 days.

25 THE COURT: No. Three full days because of

1 Juneteenth is a holiday. How long do you think
2 your experts will take?

3 MR. JACKSON: I think we are going to have in
4 between eight and 10 witnesses, total. One, two,
5 three, four experts.

6 THE COURT: And we need voir dieres. We need
7 voir dieres of the experts, right?

8 MR. LALLY: Yes. I anticipate we'll have
9 another motion to exclude at least one of the
10 experts tomorrow. And then, yes, I think we need a
11 voir dire of the remaining ones because I don't
12 know what their testimony is going to be, with the
13 exception, I think, of Mr. Green and Dr. Sheridan.
14 Dr. Van Ee, I have no idea. And the ARCCA person,
15 I really don't know.

16 MR. JACKSON: There's going to be two from
17 ARCCA and Dr. Van Ee both -- the voir dire, it is
18 what it is. I expect if I could -- excluding an
19 extensive voir dire, I could get our case in chief
20 done and over with I think in four to five days of
21 full testimony. Probably four full days of
22 testimony if there is no extensive voir dire. My
23 goal is to get it done in a week.

24 THE COURT: You've provided a lot of
25 discovery, right?

1 MR. JACKSON: I provided everything that we
2 have. I can't make up discovery. I mean, I got a
3 report, and everybody in this group knows why I
4 can't provide additional discovery for ARCCA.
5 Everybody knows. They've got what I've got.

6 THE COURT: I haven't. If you can't, that's
7 fine. So not everybody knows, and I make those
8 decisions.

9 MR. JACKSON: Certainly. Certainly. You're
10 the one who needs to know and I thought you knew.
11 The federal authorities will not allow me to
12 interview or ask for additional information from
13 anybody in their world. So I have nothing. I've
14 got a report. He's got the report. That's it.
15 I'm going to start asking questions on the report.
16 That's it. He can cross on the report. So as many
17 times as he says, I don't know what they're going
18 to testify to, yes, you do, because they are going
19 to testify to the contents of the report, and those
20 are definitely questions I'm going to ask. So I've
21 got clean hands.

22 THE COURT: Who are those individuals? Which
23 names?

24 MR. JACKSON: Dr. Wolfe. Dr. Rentschler.

25 THE COURT: Okay. All right. We'll see you

1 tomorrow morning.

2 MR. JACKSON: Thank you, Your Honor.

3 (Whereupon, the sidebar conference concluded and
4 the Court adjourned.)

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C E R T I F I C A T E

I, Paula M. Mills, retired certified court reporter, do hereby certify that the foregoing pages, page 26-4 to 26-250, is a true and accurate transcription of the voice recording in the aforementioned matter to the best of my skill and ability.

This, the 19th day of December, 2024.

\s\ Paula M. Mills

Paula M. Mills

Retired Certified Court Reporter
and Court Transcriptionist